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Streamlining the Environmental Permitting Process: A Survey of State Reforms

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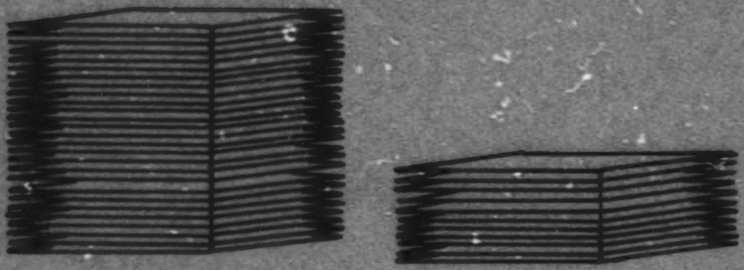

A Survey of State Reforms

Final Report

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This report describes initiatives that each state has taken to streamline and expedite the environmental permitting process. Information for this survey was gathered primarily through telephone interviews with state officials and from secondary sources of information. The resulting report is a state-by-state description of the environmental permitting reforms that those officials interviewed consider to be the most significant. It is designed to serve as a reference tool for persons interested in learning about the types of environmental permitting reforms initiated across the country.

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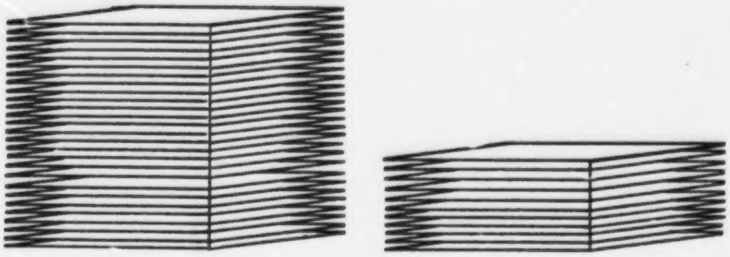

A Survey of State Reforms

Final Report

U. S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF POLICY AND RESOURCE MANAGEMENT

June 1982

PREFACE

This document presents information obtained from telephone interviews with officials in all 50 state governments as well as from secondary sources of information. Special appreciation is given to the many state officials who contributed their valuable time and thoughtful review. Acknowledgement is also made to the Southern States Energy Board, the Western Interstate Energy Board, and the Regulatory Reform Institute for their work in the early stages of the survey.

The U.S. Environmental Protection Agency's Energy Facilities Branch within the Office of Policy and Resource Management provided direction throughout the duration of the project. The Office of Water Enforcement and Permits also contributed extensively. Special thanks are given to Stu Sessions and Sue Wilson for their valuable assistance.

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EXECUTIVE SUMMARY

As the complex of state, federal, and local environmental regulations has multiplied over the last decade, developers of energy and industrial projects have increasingly faced problems of confusing and duplicative permit requirements and delays in receiving permit approval. In response, many states have initiated procedural permitting reforms.

During 1981, the U.S. Environmental Protection Agency undertook a survey of the procedural environmental permitting reforms in all 50 states. Information for this survey was gathered primarily from telephone interviews with state officials and from secondary sources of information. The resulting report is a state-by-state description of the environmental permitting reforms that each state considers the most significant.

This survey is designed to serve as a reference tool for state officials interested in learning about the types of environmental permitting reforms initiated by their counterparts across the United States and in exploring alternatives to implement at home.

In order to help state officials locate states where similar procedures have been implemented and to provide a structure for analysis, each state permitting reform was categorized into one of the following key reforms:

- Computer tracking
- Decision-making deadlines
- General permit
- Joint application
- Joint hearing
- Joint review
- One-stop permitting
- Over-the-counter processing
- Permit/application coordinator
- Site inventory/banking

PART I: INTRODUCTION

INTRODUCTION

State, federal, and local environmental laws and regulations have reduced air, water, and solid waste pollution and have mitigated many negative impacts associated with energy and industrial projects. However, as these regulations have grown in number and complexity, so has the difficulty for agencies in administering the regulatory programs and for project applicants in understanding and applying for the many permit requirements associated with them.

The complex of environmental laws that exists today was formed incrementally over time; each new law was passed to address a specific, single purpose or need, and subsequent laws were passed to fill in gaps left uncovered by the old. Moreover, organizationally separate agencies and programs also developed incrementally at the local, state, and federal levels. As a result of this history, these agencies frequently have overlapping, duplicative, or contradictory regulatory authority as well as inadequate communication networks.

The effect on industrial and energy project sponsors has often been burdensome in terms of money and time. Inadequate and conflicting information, constantly changing and duplicative application requirements, and lengthy permit decision times are factors that have contributed to added project costs and delays in commencing projects. Government agencies have also suffered in terms of their efficiency, coordination, and quality of decision making. Just as regulatory overlaps occur, there may also be situations where poorly coordinated review procedures fail to address environmentally unsound aspects of projects. And ultimately, of course, the public has paid through inadequate environmental protection, costly government services, and higher priced energy or industrial projects.

There are numerous examples of delay and cost due to this regulatory maze. One of the more extreme cases was the Sohio pipeline proposal which underwent five years of attempting to meet 715 permit requirements before the effort was abandoned.[1] The Kaiparowitz coal project in Utah spent 14 years in the regulatory process before it was ultimately abandoned.[2] Less extreme examples occur on a regular basis.

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[1] Tosco Foundation, Siting Major Energy Facilities, October 1979, p. 1.

[2] D. Linkhart, Western Governors' Policy Office, "Permitting and Siting of Energy Projects," June 1981, p. 7.

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Naturally, the reasons for delay in a project are not all regulatory. Projects may be delayed for technical--architectural/engineering--reasons. In addition, an applicant might postpone a project because it is not economic or does not meet the company's criterion for minimum financial return. Finally, a project might be delayed because it is unable to obtain adequate financing. Even when the regulatory process is drawn out, the cause may not be a duplicative, cumbersome process, but legitimate environmental concerns or a project applicant's inability or unwillingness to provide the necessary information. Nonetheless, the regulatory maze is recognized by industry and government representatives alike as an important and controllable factor in the all too frequently lengthy permitting process.

Efforts to improve permitting processes are taking place at the local, state, and federal levels. For many major projects, the bulk of permitting requirements occur at the state level. This trend will intensify with further delegation of federal responsibilities to states. Many states have passed legislation, promulgated regulations, or made administrative changes to streamline, simplify, and coordinate their environmental permitting processes.

OBJECTIVES

In order to ensure that states are aware of the successful reforms initiated by other states, the Energy Facilities Branch of the EPA's Office of Policy Analysis and the Permits Division of the EPA's Office of Water Enforcement and Permits undertook a survey of state environmental permitting reforms.

Preliminary work on the survey was performed by the Southern States Energy Board, the Western Interstate Energy Board, and the Regulatory Reform Institute. In August 1981, the EPA requested that Temple, Barker & Sloane, Inc. (TBS), a management and economic consulting firm located in Lexington, Massachusetts, complete the survey work and prepare a report summarizing the findings.

In undertaking this survey, the EPA and TBS concentrated only on those reforms that satisfied the following three criteria:

- The reform had to expedite or facilitate in a significant way the issuance of a permit.

- The reform had to affect permits that regulate activities that have environmental impacts (e.g., air, water, solid waste, and facility siting permits).
- The reform had to affect some part of the permitting process, from initial permit application to final administrative approval.

METHODOLOGY

In conducting the survey TBS primarily relied on secondary sources of information and on telephone interviews with state officials. With respect to secondary sources of information, TBS used numerous recent descriptions or evaluations of state permitting reforms provided by either the EPA or the individual states. A complete bibliography of the sources used in the survey is included at the end of this report.

TBS also held telephone interviews with state officials and asked them to describe those reforms they considered the most important. Only those reforms that were mentioned by state officials in the telephone interviews were included in the survey. Not all the reforms, however, mentioned by state officials are included in Part II of this report; some reforms did not satisfy the three screening criteria mentioned above. A list of the state officials who may serve as primary contacts for further discussion of these reforms is included after each of the state summaries.

Finally, neither the EPA nor TBS undertook an independent evaluation of the effectiveness of the reforms that are included in this report. Thus, the report is a compilation of those environmental permitting reforms that the states believe to be the most significant, and is not necessarily an evaluation of those that are the most effective.

KEY REFORMS

The environmental permitting reforms that have been initiated by the states concern all phases of the permitting process, from initial permit application to final administrative approval. The reforms include those that have been adopted pursuant to statutes, regulations, executive orders, and informal administrative decisions. Moreover, different states have implemented variations of the same kind of reform and yet titled it differently.

In order to help the reader locate states where similar procedures have been implemented and to promote consistency in the state summaries, TBS grouped the many permitting reforms into ten categories of "key reforms." These categories are not intended to exhaustively define and differentiate among the various environmental permitting reforms; new procedures are constantly being tried and old ones modified. The categorization is intended primarily as a reference aid.

Where relevant, each state summary is organized around a description of the state's implementation of one or more key reforms. The key reforms are listed in the upper righthand corner of the first page of each state summary.

Exhibit 1 presents a matrix of the ten key reforms implemented by the states and mentioned in the survey. Definitional criteria and relevant observations about each of the reforms are set forth below.

Computer Tracking

- The use of a computer to track a permit application or renewal or to monitor compliance with a permit that has been issued.

Computerized data storage and retrieval systems are a recent and rapidly growing management reform in the public sector. Eight states noted the significance of systems that are already in place or are currently being developed. Typically these systems are used as informational mechanisms to track permit applications and to monitor compliance with existing permits.

Some states use the computer to track individual permit programs, and other states are developing comprehensive systems for all their environmental programs. Kentucky has instituted a Surface Mining Information System to handle the volume of permit applications and to monitor needs in the mining area. Michigan tracks its dredge and fill permits to assure that reviews are conducted within special time frames. Many of the states with single permit programs are examining the feasibility of adapting the system to other programs.

Exhibit 1

MATRIX OF KEY REFORMS DESCRIBED IN THIS SURVEY

EPA Region	State	PERMITTING REFORM									
		Computer Tracking	Decision-Making Deadlines	General Permit	Joint Application	Joint Hearing	Joint Review*	One-Stop Permitting*	Over-the-Counter Processing	Permit/Application Coordinator	Site Inventory/Banking
I	Connecticut		▨					▨		▨	
	Maine		▨		▨					▨	
	Massachusetts		▨		▨					▨	
	New Hampshire		▨		▨	▨					
	Rhode Island									▨	
	Vermont									▨	
II	New Jersey	▨	▨		▨				▨	▨	
	New York	▨	▨	▨	▨			▨		▨	
III	Delaware									▨	
	Maryland		▨			▨		▨		▨	▨
	Pennsylvania									▨	
	Virginia				▨					▨	
	West Virginia									▨	
IV	Alabama										
	Florida		▨					▨			
	Georgia							▨			
	Kentucky	▨								▨	
	Mississippi									▨	
	North Carolina	▨			▨					▨	
	South Carolina										
	Tennessee		▨				▨				
V	Illinois		▨		▨	▨	▨			▨	▨
	Indiana										
	Michigan	▨			▨	▨				▨	
	Minnesota		▨							▨	▨
	Ohio				▨					▨	
	Wisconsin	▨	▨	▨		▨				▨	
VI	Arkansas										
	Louisiana					▨					
	New Mexico		▨							▨	
	Oklahoma		▨								
	Texas	▨									
VII	Iowa							▨			
	Kansas										
	Missouri		▨								
	Nebraska										
VIII	Colorado		▨				▨				
	Montana		▨		▨	▨					
	North Dakota										
	South Dakota										
	Utah						▨			▨	
	Wyoming										
IX	Arizona		▨					▨			
	California		▨		▨					▨	
	Hawaii	▨			▨	▨				▨	
	Nevada										
X	Alaska		▨		▨	▨				▨	
	Idaho										
	Oregon		▨	▨		▨		▨		▨	
	Washington		▨			▨		▨		▨	

*All joint review and one-stop permitting reforms include joint application and joint hearing.

More comprehensive computer systems are now being developed in states such as North Carolina and Hawaii. Hawaii's Permit and Application Support System (HPASS) will include compliance status data on air, water, and waste permits as well as the state EIS, the A-95 Notification and Review, and other environmental requirements. In addition, Hawaii intends to expand the system to include permit applications and an environmental data base.

Computer systems can also be used to share information across levels of government. The Environmental Protection Agency's Region II office is arranging with both New York and New Jersey to share the EPA and state computer data systems.

Decision-Making Deadlines

- The use of fixed deadlines for administrative action or permit application.

  --The deadlines can be mandated by statute, regulation, or executive order.

- More strict deadlines than are generally required by the state, usually by the state's administrative procedures act.

  --The intent is to reduce the total time necessary to reach a final decision.

  --Sanctions may or may not be attached to the failure to meet the deadlines.

Most states have decision-making deadlines mandated comprehensively by a state administrative procedures act or associated with individual permits or program-specific laws. However, only 22 states noted the significance of decision-making deadlines in their environmental permitting procedures.

One half of the cases where deadlines are described in this report are for energy siting/permitting processes. For these projects the deadlines to complete the decision-making process range from six months in Arizona to 33 in Montana.

Typically decision-making deadlines date from the time the application is deemed complete by the permitting agency. Frequently the deadline varies, depending on whether a hearing is required or not. In New York all permits (except for those for powerplants) must be issued within 60 days of the last hearing or, if no hearing is requested, five days after a decision-making conference. Missouri has different deadlines for "minor" and "major" permits. Minnesota is planning to require that all permits be issued or denied no more than 60 days after the state EIS has been completed.

In states where extensions are readily available or where there are no sanctions attached to failure to meet the deadline, the value of a decision-making deadline in accelerating the permitting process may be compromised. A few states, such as California and Colorado, automatically grant a permit if the agency does not act within a specified period of time.

General Permit

- The use of one permit document for an entire category of permit applicants.
  - --The permit applicants who are "covered" by the general permit category are those who satisfy specified criteria, such as certain types of dischargers whose rate of discharge is less than a given amount.
- The use of a "self-certifying" permit in which the applicant determines whether he satisfies the specified criteria needed for issuance of the permit. Such applicants need not undergo an individual permit review.
  - --The self-certification process imposes legally enforceable standards upon the permit applicant.

Under the EPA's Administrative Guidelines to the Clean Water Act, several states have initiated the use of general permits for certain categories of water dischargers. This reform serves both to reduce the burden of administration and enforcement on the state agencies and to relieve small dischargers of time-consuming permit application and reporting requirements. During this survey, Oregon, New York, and Wisconsin noted the importance of general permits for small dischargers. All three states issued their general permits during 1981.

The U.S. Army Corps of Engineers also issues "general permits" for many categories of projects requiring dredge and fill permits under Section 404 of the Clean Water Act. (See

North Carolina.) The Corps' general permit differs substantially from the general permit described above in that Corps officials determine on a case-by-case basis whether a project is covered under the general permit, and applicable projects must still obtain state permits. Therefore the key word "general permit" is not used to describe the process used by the Corps of Engineers.

Joint Application

- The submission of a single application form for more than one permit.
- The distribution of the completed application to more than one agency.
  - --The completed application can be directly submitted to all the relevant agencies, or it can be submitted to one agency which in turn distributes it to the relevant agencies.
  - --The agencies that receive the completed application can be federal, state, or local agencies.

Although many states have explored the use of joint applications for a variety of permits, they have later found certain types of permit combinations to be more feasible than others. An ever-more-common area for joint applications is the complex of local, state, and federal (Army Corps of Engineers) coastal and dredge and fill permits. Five states noted the importance of joint applications in reducing the duplicative intergovernmental requirements in this area. Joint applications are also used for many energy facility permitting processes. Since all one-stop permitting and joint review processes by definition include the use of a joint application, a separate key word for joint application is not listed along with one-stop permitting and joint review. However, many states have instituted energy facility permit processes that are not one-stop permitting but do include joint applications. In addition, individual states have used joint applications for specific permit combinations. For instance, Alaska uses a joint application to cover various applications previously required by six state and three federal agencies to permit placer mines. New Jersey actually uses one master permit application for all permits and distributes xeroxed copies to the different permit programs.

Frequently permit coordination legislation and descriptions of a permit coordinator's duties include a mandate to encourage the use of joint applications. In most of these cases joint applications rarely or never occurred, and so a key word is not listed. Furthermore, "joint application" does not describe the permit information forms used by states such as Washington and Pennsylvania. These forms, often referred to as master application forms, are used to identify which state permits an applicant must obtain.

Joint Hearing

- The participation of more than one permitting authority in one hearing.

Although many states broadly encourage the use of joint hearings, their practice has by and large been limited to states where agency participation is mandatory. Several states, such as Washington and Maryland, have established procedures enabling applicants to request joint hearings; in these cases, the practice of joint hearings has been limited only by reluctance on the part of the applicant. Other states have routinely incorporated joint hearings into their permitting processes.

Several of the states that mentioned joint hearings use this vehicle routinely for energy facility permitting processes. As in the case of joint applications, since all joint review and one-stop permitting processes as defined in this report include the use of joint hearings, a separate key word for joint hearing is not listed along with one-stop permitting and joint review. Five states noted the use of joint hearings for nearly all their environmental permits. For instance, Washington and Maryland offer applicants the option of a joint hearing for all required permits. Other states use joint hearings for specific permits or projects. Illinois, for instance, holds joint hearings for major construction projects and Michigan holds joint dredge and fill permit hearings.

Although many states have attempted to institute joint hearings across governmental levels, the reform has been most successful at the state level. In Maryland, local agencies may be invited to participate in hearings with state agencies, while in Washington local agencies are required to participate in the coordinated review process and joint hearing. Efforts to combine federal and state agency hearings have not been widespread. Except for the state programs categorized under "joint review," only the Michigan dredge and fill program and the Wisconsin mining reclamation program were noted as examples of joint state and federal hearings.

Not reflected under the joint hearing category is an apparent trend toward reducing the total number of public hearings required of applicants. Some states noted that they have successfully streamlined the permitting process for small or noncontroversial projects by eliminating the public hearing requirement. In other situations, the EPA and individual states have coordinated their permitting process so that only one agency holds a public hearing.

As in the case of joint applications, permit coordination legislation or executive orders often include a mandate to encourage the use of joint hearings. However, unless agency participation is mandatory, combined hearings rarely take place.

Joint Review

- An approach to coordinating the issuance of multiple permits needed by a single project.
- The involvement of more than one government agency as part of a "team" in the permitting process.
  - --The object is to include federal, state, and local agencies from which permits are needed on the team.
- The coordination of the schedule for permit applications, permit hearings, or decisions on whether or not to issue the permits.
- Written commitment by participating agencies at the beginning to meeting the schedule.
  - --There may or may not be sanctions attached to the failure of an agency to meet its written commitment to the schedule.

Colorado's Joint Review Process, initiated by executive order in 1978, has served as the model for subsequent efforts in three other states. State legislatures in Tennessee and Utah passed joint review legislation in 1981, and the governor of Illinois initiated a joint review process through executive order during 1981. All four programs apply to major projects in the energy and mineral resources development area.

The processes set up in these states are designed around the basic concept of a review team composed of representatives of state, local, and federal agencies and the project applicant. However, in all these cases local and federal agencies are not required to participate. Utah's structure differs slightly from that of the other states in that the Resource Development Coordinating Committee, a pre-existing intergovernmental body which conducts A-95 and other reviews, oversees the process.

The joint review process is designed to be a flexible coordinating reform. Only applicants that request it and are designated eligible by the governor are permitted under the joint review process. The joint review team is given considerable planning and enforcement discretion to arrange for such streamlining vehicles as joint hearings, deadlines, and joint applications. Because these reforms are generally available under all joint review processes, separate key words for joint applications and joint hearings are not listed under joint review. The process is intended to be tailored to individual project applications.

Because Tennessee, Utah, and Illinois initiated their joint review processes in 1981, only Colorado has had any experience with the reform. Seven projects have applied and been accepted for consideration under Colorado's review process. Utah is the only other state to have designated a project eligible for joint review.

One-Stop Permitting

- One administrative process for all state permits (at the minimum) involving both a joint application and a joint hearing.
- One government body that issues a permit or permits or that requires other agencies to issue permits.
    - --The government body can be one agency or a team consisting of a group of officials from several agencies.
    - --In some cases, other agencies can attach conditions to the permit that is issued by the lead government body.

As defined in this report, one-stop permitting processes exist in eight states. However, modifications of one-stop permitting, where many but not all of the criteria described above are met, occur in many other states. For instance, Ohio's permitting process for energy facilities is categorized under "permit/application coordinator" and "joint application," since the process does not include joint hearings and each agency maintains authority to issue its permit. Some of these states may actually label their process "one-stop permitting" but fail to meet the definition contained in this report.

Nearly all one-stop or modified one-stop permitting processes apply to major energy facilities and transmission lines. Specific eligibility criteria vary from state to state in terms of minimum facility size and other types of energy project coverage. A few states, such as New York and Florida, have established one-stop permitting procedures for industrial facilities. Connecticut is one of the initiators of one-stop permitting for hazardous waste facilities. In all cases described in this report, except for Florida's industrial one-stop permitting process, project applicants are required to use the process.

The decision-making structure also differs across states. In many states, such as Arizona and New York, a special siting council composed of state and local agency representatives decides whether to grant the applicant the requested permit. In Florida, the governor and his cabinet make the certification decision. Maryland's Public Service Commission has final authority over powerplant permitting. Local permits and agencies are typically included in the one-stop permitting process, although state power to override local decisions varies among the states. Nearly all the states have deadlines for their one-stop permitting processes, but the time frames range from six to 24 months.

Since nearly all the energy facility one-stop permitting programs were first developed in the early 1970s, this reform has been well tested. Most states have certified at least three or four major facilities under this reform.

To generalize, one-stop permitting has not necessarily resulted in accelerated permitting of facilities. Instead, the process seems to have provided states a forum for comprehensively assessing proposed projects and integrating these decisions into long-range plans.

Over-the-Counter Processing

- Permit application, permit review, and permit approval occurring on the same day and at the same place.

  --A preapplication discussion (often a telephone conversation) between the applicant and the relevant agency can occur at any time before the one-day processing.

  --Over-the-counter processing applies to minor permits.

Although only New Jersey made mention of this reform, it has proved very helpful to small project applicants.

Permit/Application Coordinator

- Any one of a series of coordination functions, including the following:

  --Master application or permit information form

  --Mediation services

  --Permit directories

  --Permit expediters

  --Permit information centers

  --Preapplication conferences

This term covers a broad range of reforms initiated in over half the states. Four states noted the actual existence of a predesignated individual titled "permit coordinator," and four states assign individual coordinators on a project-by-project basis. In other states, a department, committee, or task force might oversee one or more of the coordination mechanisms listed above.

The permit/application coordinator reform may apply to a variety of permits or projects. Seventeen states, including Connecticut, Rhode Island, and Michigan, described procedures that apply to all their environmental permits. The term is also used to describe facility permitting processes in states such as Ohio and Massachusetts which do not meet all the criteria of one-stop permitting but are highly coordinated. Hawaii, Maine, and Vermont coordinate their land-use permits, while other states' procedures apply to dredge and fill permits, construction projects, or "priority" projects. Many states have attempted to coordinate the local or federal permitting process. These efforts have succeeded more in the informational area than in the application, review, and decision-making stages (excluding the Corps' dredge and fill permits).

Typically the reform is aimed at "coordinating" the permitting functions of many agencies so that project sponsors may submit their applications and receive responses in a consistent and timely fashion. Pennsylvania's regional system and Ohio's energy siting process are examples of coordinated systems. Several state reforms are aimed at "expediting" a project through the permitting process, such as Kentucky's proposed priority application procedure and New Jersey's pool of permit expediters. Yet, increasingly, it is the "informational" reform that states and industry are finding most useful. Washington, Maryland, and Hawaii have established a variety of mechanisms to help both agencies and applicants learn more, earlier, about issues associated with the project review and permit application requirements.

Site Inventory/Banking

- The identification of an inventory of sites for specific types of facilities by a state agency using preselected criteria.

  --The agency can either identify the site or actually purchase ("bank") it.

Although several states have explored the concept of site inventories or banks for guiding the location of new major energy facilities, only three states noted actual use of this reform. Minnesota has limited the scope of its inventory to broad-corridor recommendations for powerplant facilities. Illinois has issued broad area maps identifying suitable areas for coal gasification and synthetic fuels facilities. Maryland, however, with separate financing from a surcharge on electricity production, actually "banks" specific powerplant sites for future sale to utilities. Although early designation of site criteria and areas for utility development is intended to facilitate the permitting process, this reform has often proved too complex to implement.

OBSERVATIONS CONCERNING STATE PERMIT REFORMS

The primary conclusion that can be drawn from the survey of state environmental permitting reforms is that there is not an "ideal" reform which should be adopted by all states for all projects. Not only do states have varied needs and concerns which are the impetus for permit reform, but different states have had contrasting experiences with similar types of reform. Outlined below are some observations concerning how state reforms differ in terms of their objectives, benefits and costs, applicability to different industries or projects, manner of initiation, and flexibility in implementation. Two final sections address the issue of regional differences and provide examples of intergovernmental coordination.

Objectives of the Reforms

Procedural permit reforms are designed to serve a variety of objectives and are a result of many different concerns. Some reforms increase public involvement and governmental oversight, some improve intergovernmental coordination, others reduce duplicative or burdensome requirements, and others improve the information flow. Most, however, are ultimately intended to expedite the permitting process.

Some reforms are aimed mainly at improving public involvement and/or governmental oversight of a project. With the fragmentation of regulatory authority across many agencies, states have found that issues have "fallen between the cracks" or that project approvals have occurred without regard for long-term planning needs. Examples of reforms directed at this problem are the various types of energy facility siting commissions found throughout the country.

Reforms may also be aimed at improving the coordination between state agencies or agencies across governmental levels. Problems of inefficiently used resources, jurisdictional ambiguity, or conflicting time frames may all be the impetus for these kinds of reforms. To this end, permit/application coordinators serve to clarify requirements for an applicant, improve communication between the applicant and agencies, and reduce the amount of overlays and conflicts between agencies.

Some reforms are specifically designed to eliminate duplicative requirements which strain applicants' resources. Joint hearings and joint applications are examples of this type of reform.

There is an increasing awareness of the unfair regulatory burden placed on small project applicants, and a number of procedural mechanisms have been implemented to address this issue. General permits for classes of activities and one-day over-the-counter processes are good examples of this type of reform. Many states have also instituted ad hoc procedures to expedite "minor" projects and/or have eliminated their public hearing requirements for uncontested, small projects.

Informational mechanisms directed at reducing the uncertainty for applicants and agencies alike are rapidly increasing in use. Most states offer preapplication conferences where applicants can learn about permit requirements and explore issues early on which might arise later in the permitting process. Permit directories are published in most states and several states have taken advantage of permit centers and computer tracking of permits to serve both applicants' and agencies' information needs.

Finally, there are reforms that are solely intended to expedite the permitting process. Decision-making deadlines are frequently imposed on permitting agencies in order to ensure that agencies are not dilatory. Some states, anxious to encourage specific types of development, have set up special task forces to expedite the permitting process for these projects, and certainly many of the reforms described earlier are intended to ultimately result in a more efficient, coordinated, and faster permitting process.

Benefits and Costs of the Reforms

The benefits and costs of these reforms are not always apparent. While in many cases the state officials can point to such records as the total reduction in permitting time or the smaller number of hearings required, in other cases, where the benefit is greater satisfaction on the part of the applicant or improved communication, such quantification is difficult. This is especially true for the informal reforms such as preapplication conferences and permit coordinators.

Moreover, the benefits for agencies and applicants are not always the ones primarily anticipated. For instance, the Colorado joint review process (CJRP), designed to coordinate agency and applicant actions and improve the public participation process, also helps the state by explicitly identifying the source of delay in the permit process. Where previously the government was normally seen as the scapegoat for permitting delay, under the CJRP, where the responsibilities of all parties are specified in agreements, the source of any delay is clear. Often, the project applicant is responsible for the delay.

Finally, many of the permit reforms clearly present tradeoff situations. A tradeoff occurs when several steps in a permitting process are eliminated so that decisions are expedited, yet agencies' decision-making capabilities are reduced and issues may "fall through the cracks." In other situations, more agencies are involved at more steps in the process, which may be more burdensome, yet decisions are made more deliberately.

Industry/Project Differences

Permitting reforms also differ in their application to specific projects or industries. Over time, certain types of projects have experienced more attention in the area of permit reform. Throughout the 1970s, many states enacted legislation governing the permitting of powerplant facilities. Emphasis in this area may have been due to such factors as the industry's history of regulatory control, recognition by the public and legislatures of the need for comprehensive energy planning, and the increased interest of local communities in determining and understanding the environmental impact of new facilities. Later, as other sorts of energy projects encountered permitting delays and as concern for national energy self-sufficiency grew, several states amended their legislation to include a broader scope of projects such as coastal refineries, pipelines, and mines. Currently, in the wake of federal RCRA legislation, more states are passing hazardous waste facility siting legislation.

Naturally, the characteristics of the reforms vary depending on the type of project affected. Both the powerplant and hazardous waste facility processes are oriented toward the siting of facilities, although some of the processes cover all permits required for construction of a facility, while others only address the siting question. Intergovernmental coordination between local and state agencies nearly always characterizes these reforms. Frequently, a siting committee, composed of representatives from all affected state and local agencies, is responsible for coordinating the process. The objective of long-term planning often supersedes any objective of expedited permitting with these kinds of reforms.

Permit reforms applicable to non-energy industrial development have tended to be implemented less formally and on a voluntary basis. A few states have enacted siting legislation for such development, but for the most part these reforms cover a range of less formal processes aimed at coordinating agency action, improving the information flow, and expediting the process.

In addition to industry distinctions, many states have implemented reforms specifically for "minor" or "major" projects. Some states have found that imposing the same requirements on projects of all sizes is too burdensome for both the agencies and the applicant. They have instituted reforms to expedite or eliminate requirements for "minor" projects. Other states are developing processes to accommodate specifically the numerous permit requirements of a "major" project. Ad hoc permit expediting committees or joint review processes are examples of this type of reform.

Statutory, Regulatory, or Administrative Initiative

States have initiated their permitting reforms through a variety of mechanisms. Many states have passed legislation to implement their processes; other states have issued regulations implementing existing statutes. In some states the governor has issued an executive order for a reform, and in others the reform has evolved out of changes in administrative practice. The benefits and drawbacks of each of these types of initiatives vary from state to state. Some state officials believe that legislation restricts the agencies to cumbersome, rigid procedures. In other states the legislation is flexible enough to accomplish regulatory reform and additionally provides the authority to ensure a stable funding source and to enforce the reform.

Flexibility of the Reform

There is a distinct trend in the nature of permit reforms toward an increased emphasis on informal, flexible procedures. Whereas much of the siting legislation passed during the 1970s prescribed rigid procedures for permitting, the more recent experiments with joint review are flexible and rely on voluntary cooperation. Several states that passed permit coordination legislation in the mid-1970s have abandoned the formal procedures laid out in the statutes and use permit coordinators in a more informal manner. State officials cite several reasons for this trend, including: court challenges to formal procedures, evidence that new reforms are even more time-consuming than the previous process, and industry criticism of formal procedures.

However, many officials also commented on the problems associated with the more flexible, informal procedures such as permit coordinators. There is a possibility that the success of many of the reforms is dependent on the abilities of the individuals in charge. If the individual is not effective, neither is the reform.

Regional Differences

Although it is difficult to discern clear regional differences in permitting reforms, some regional differences do seem to correspond to the type and level of industrial development. For instance, many of the heavily populated, industrialized Northeastern and Middle Atlantic states have established informal permit coordinators. These permit coordinators are very helpful to a large volume of not very complicated projects. In contrast, several of the western states with a great deal of new energy development have created formal joint review and facility siting processes which are best applied to only a few major, complicated projects. Finally, the sparsely populated states with little energy or industrial development presumably have little need for environmental permitting reforms and, as a consequence, have initiated relatively few reforms.

Intergovernmental Coordination

A pressing need in the area of permit reform today is for more effective intergovernmental coordination. As both the local and state agencies develop greater analytical and decision-making capabilities and as states assume a larger role in the environmental review process, the problem of jurisdictional conflict has grown. Moreover, many state officials noted that differing federal and state statutory deadlines pose a major obstacle to their efforts to streamline the review process. For the applicant this may mean confusion over permit requirements, duplicative demonstrations of compliance, and lengthy review times. For the agencies this may mean agency conflicts, wasted efforts, and inadequate environmental review.

State, federal, and local agencies are coordinating their efforts in a wide range of ways. A common practice between state and federal agencies is to sign a Memorandum of Understanding (MOU) or Agreement (MOA) which describes mutually agreed-upon coordinating procedures and jurisdictional boundaries. Several states have established state/federal task forces to explore new ways to coordinate their efforts. Annual state/EPA Agreements (SEAs) often include goals for coordinating state and regional EPA agency efforts. The Department of the Interior has worked with several states to combine EIS procedures. The U.S. Army Corps of Engineers district offices have established an assortment of agreements with state agencies to combine applications, hearings, and review procedures for projects requiring permits from both levels of government. Many states have designed one-stop and joint review processes where local and/or federal participation is encouraged.

One major distinction between intergovernmental and state agency coordination processes is the general absence of enforceability of the former and therefore its heavy reliance on a spirit of cooperation. This is especially true for state efforts to include federal review agencies. While some states have legislatively given themselves pre-emptive authority over local siting decisions, they are generally reluctant to use this power.

The success of these intergovernmental efforts varies from state to state. While many states cited the federal/state/local interface as their most difficult problem, other states commented on an excellent relationship between the various governmental levels.

PART II: STATE SUMMARIES

ALABAMA

OVERVIEW

There is no formal consolidation of state permits in Alabama. Separate boards and commissions process state and federal permits in the categories of air, water, solid waste, drilling, mining, etc.

Over the last few years, similar versions of a bill have been introduced in the state legislature to consolidate environmental management and permitting into one agency, the Department of Environmental Management. Department of Public Health staff indicate that they expect passage of the bill within a couple of legislative sessions.

Water Improvement Commission staff are considering a proposal to issue general permits for 11 categories of dischargers. They believe that the use of general permits will effect significant savings in personnel time.

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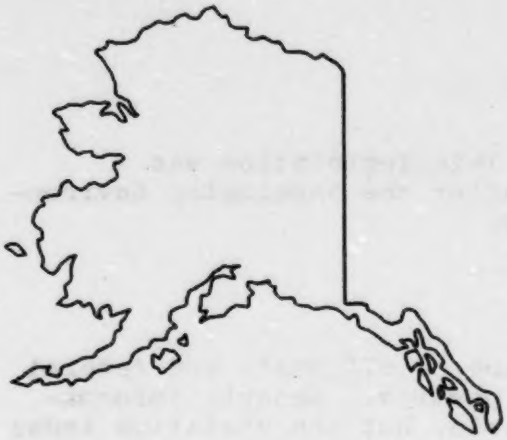

ALASKA

Permit/Application Coordinator
Joint Hearing
Decision-Making Deadlines
Joint Application

OVERVIEW

Alaska has established permit information centers in several locations to disseminate to interested parties information about permits required, qualifications for such permits, application procedures, and state contacts. These centers serve as an initial intermediary between applicants and the regulators. Additionally, a coordinated review process, which includes a consolidated preapplication form, issuance of joint public notices, and joint hearings, is available to any applicant. This review, however, is limited in scope and applies only to certain environmental permits. Finally, a master application is required for the permitting of placer mines.

PERMIT/APPLICATION COORDINATOR

Alaska has established three permit information centers--in Anchorage, Fairbanks, and Juneau--which offer a variety of information about local, state, and federal permits. The centers both provide potential applicants information on permits required for specific projects and give them the names of specific regulatory agencies. The centers function as clearinghouses for the master application and joint review processes as well.

The centers were created by the Department of Environmental Conservation (DEC) in response to a legislative mandate to "establish an opportunity for members of the public to obtain information pertaining to requirements of federal, state, and local law which must be satisfied before undertaking a project in this state" (Environmental Procedures

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Coordination Act, A.S. § 46.35). This legislation was modeled, with minor adjustments, after the Washington Environmental Coordination Procedures Act.

Permits/Agencies Affected

The centers provide information on all state and federal permits, not solely environmental permits. Generic information on local permitting is available, but the variation among local practices makes it impossible to catalog specific requirements.

Administrative Process

After the applicant furnishes a description of the proposed project, the center will identify the agencies with jurisdiction; the federal, state, and local permits that may be necessary; and the appropriate contacts. To facilitate this effort, the DEC has compiled a permit directory and lists of permits required for specific types of projects. The centers also function as the clearinghouse for master applications and the joint review process. Toll-free telephone service with these centers is available throughout the state.

Experience with the Reform

The permit information centers are heavily used, receiving hundreds of calls per month.

JOINT HEARING, PERMIT/APPLICATION COORDINATOR, AND DECISION-MAKING DEADLINES FOR SPECIFIED STATE PERMITS

A coordinated review of certain state permits is available to any project requiring multiple state permits. The process includes a master preliminary application, coordinated notice activities, and joint hearings. These procedural measures were authorized in 1977 by the Environmental Procedures Coordination Act (A.S. § 46.35). The use of this process is voluntary, and any project requiring two or more permits is eligible.

Permits/Agencies Affected

The Environmental Procedures Coordination Act specified 34 environmental permits issued by the departments of Environmental Conservation, Fish and Game, Natural Resources, and Transportation and Public Facilities which must be considered in the coordinated review process. This list includes many of the major state environmental permits, such as air and water pollution, land use, and mineral extraction. All other permits issued by these as well as the other state agencies are included in the process. Local and federal authorities may, at their option, be represented at the hearings.

Administrative Process

The process is initiated when the applicant files a single preliminary application with the Department of Environmental Conservation through the permit centers. The DEC circulates the application to the other eligible agencies, which must determine within 15 days whether permits are required. If an agency has a negative response or fails to respond promptly, it cannot subsequently require permits. When these determinations are complete, the permit center distributes the necessary application forms to the developer. Upon filing of the necessary forms, the participating agencies issue a joint public notice and hold joint public hearings if any agency deems hearings necessary.

Each state agency having an application for a permit must be represented at the hearing. A DEC hearing officer chairs the hearing, but representatives from the other agencies conduct the portions of the hearing relevant to their jurisdictions. Following the hearing, decision deadlines (usually 90 days or less) are established by the DEC. No state permit may be issued under the Environmental Procedures Coordination Act unless the applicant can demonstrate that all necessary local permits or certifications, if any, have been received. The individual state permits are then issued through the permit center.

If an applicant desires, he or she may use only the first stage of this coordinated review process. In such a case the applicant files the preliminary application. The DEC then lets the applicant know what state permits are required and furnishes him or her with the necessary application forms. The applicant then follows the standard permitting procedure required by each of the various state agencies.

Experience with the Reform

The coordinated review process has not been used extensively since it was instituted in 1977. Twenty applicants have entered the process, but only one has chosen to participate in the optional joint hearings.

JOINT APPLICATION FOR PLACER MINES

Alaska has consolidated the applications for state permits relating to placer mines (operations which collect minerals from sand or gravel deposits by washing or dredging). The use of the master form is required of all placer mine applicants. This practice was adopted by voluntary agreement among the state agencies. This form replaces the various forms previously required by the six state and three federal agencies participating in the program.

Permits/Agencies Affected

The consolidated application is used for state permits required for placer mining, including water permits, land-use permits, and mining licenses. The federal agencies--EPA, BLM, and USFS--accept this application as their annual report and plan of operation. The local reviews are independent.

Administrative Process

The applicant submits a single application to the permit center, which forwards the application to the interested agencies. The agencies conduct their reviews independently.

Experience with the Reform

In 1981, over 600 master applications were filed and processed, covering about 2,000 placer mine claims. A DEC official noted that despite problems in 1980--the first season that master applications were used--the program was well received in 1981.

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ARIZONA

One-Stop Permitting
Decision-Making Deadlines

OVERVIEW

The Arizona Power Plant and Transmission Line Siting Committee conducts a one-stop permitting process for all major electric utility facilities. The process includes a master application, joint hearings, and a review deadline. If the committee approves an application for an electric utility facility, it issues a Certificate of Environmental Compatibility, which is the only state authorization required.

In addition, Arizona has within the Office of Economic Planning and Development a liaison service which aids developers in identifying the state and local regulatory requirements for projects contemplated around the state.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR MAJOR ELECTRIC UTILITY FACILITIES

The one-stop permitting process of the Arizona Power Plant and Transmission Line Siting Committee is mandatory for all new powerplants with capabilities over 100 megawatts and transmission lines over 115,000 volts. The committee, composed of eleven state agency representatives and seven public members appointed by the governor, conducts a joint review in which all interested state and local authorities participate. If the committee approves a project, it issues a "Certificate of Environmental Compatibility" (Ariz. Rev. Stat. Ann. 40-360.01 et seq.). The certificate is the only state authorization needed by the utility; no additional approvals from state agencies are required, though the agencies do retain authority to attach conditions to the certificate.

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Permits/Agencies Affected

Although the certificate is the only state approval necessary for eligible projects, and no other permits are required, the committee must ensure that all state regulatory requirements are met. State permit requirements that must be satisfied include those affecting air pollution, wastewater discharge, water use, solid and hazardous waste, and land use.

Local authorities may participate in the joint proceedings in order to present any objections to a proposal. Although local ordinances must ordinarily be met, the committee can override local restrictions deemed unreasonably restrictive. The ability of local regulators to halt a project in this process has not been tested. There has been no significant federal participation in the process.

Administrative Process

In order to initiate the one-stop permitting process, a utility files a master application with the siting committee. The application is forwarded to the relevant state and local authorities, and a joint hearing is scheduled. At the close of the evidentiary hearings, the state agencies with jurisdiction must inform the committee of any restrictions or conditions to be attached to the certificate. The committee's criteria for reviewing applications are consistency with Arizona's environmental and economic goals and compliance with state and local regulatory requirements.

Ten favorable votes in the 18-member committee are necessary for a project to be approved. A decision, whether favorable or unfavorable, must be made within 180 days of the filing of the application. Any of the participants in the proceeding may, within 15 days of the decision, file an appeal with the Arizona Corporation Commission.

Experience with the Reform

The statute was adopted in August 1971. There have been 57 applications under this program in the past ten years. Although the great majority of these have been for transmission line projects, the applicants have included one nuclear plant and one coal plant. None of these applications has been denied.

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ARKANSAS

OVERVIEW

There is no consolidation of state permits in Arkansas. However, all environmental permit programs are administered by one agency, the Department of Pollution Control and Ecology. This organizational structure facilitates communication among the permitting program staffs. A Commission of Pollution Control and Ecology officially makes all permit decisions (except those concerning water quality, which has been delegated to the department's water division), and department staff administer the programs.

In the past, Arkansas has experimented with using a project manager to coordinate the environmental permitting of large projects. This approach has been dropped because of insufficient staffing.

The department may hold preapplication conferences for large projects requiring multiple permits. Representatives from each of the permit programs will get together with the applicant to discuss permit requirements.

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CALIFORNIA

Permit/Application Coordinator
Joint Application
Decision-Making Deadlines

OVERVIEW

California's major reforms in permitting result from two state laws, the Warren-Alquist Act passed in 1974, and A.B. 884 passed in 1977. The Warren-Alquist Act establishes a coordinated and expedited procedure for the siting of large powerplants and transmission lines. The other law, A.B. 884, sets deadlines for permit review and mandates information exchange among agencies. A.B. 884 applies to construction and development projects of all types other than those covered by the Warren-Alquist Act.

To assist in implementing both laws, California has established the Office of Permit Assistance (OPA) as part of the state Office of Planning and Research. The OPA provides applicants with information such as the California Permit Handbook and arranges preapplication conferences and coordinated reviews.

Finally, at least one attempt was made to inventory sites desirable for industrial development in the San Francisco Bay Area. The Association of Bay Area Governments (ABAG) performed this study in cooperation with the state. Although a report was issued, it has not had much impact on development decisions, according to a government official who helped prepare the report.

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PERMIT/APPLICATION COORDINATOR, JOINT APPLICATION, AND DECISION-MAKING DEADLINES FOR MAJOR ENERGY PROJECTS

The Warren-Alquist Act establishes what may be termed a modified one-stop siting process for thermal powerplants generating more than 100 megawatts and their associated transmission lines. The procedure is not described here as one-stop because it is a coordination of individual agencies that make separate reviews under time deadlines.

Permits/Agencies Affected

The process encompasses all the state air, water, and solid waste permits issued for a facility. If federal agencies must approve a project, their participation is invited but cannot be required by the state. The state Energy Commission issues the final certification, which incorporates all the state agency reviews. However, an applicant must receive an additional permit (the Certificate of Public Convenience and Necessity) from the state Public Utilities Commission (PUC), which holds its review separately from the Energy Commission.

Administrative Process

The California Energy Resources and Conservation Commission (Energy Commission), created by the Warren-Alquist Act, oversees a two-stage process for applicants proposing energy facilities. First, the applicant files a Notice of Intention (NOI) which provides the Energy Commission, other agencies, and the public with early information about a project. The Act specifies that information about the size and location of the facility be included, along with predictions of its economic, social, and environmental impacts. The sponsor must include at least three alternative sites for the project. The Energy Commission acts as the coordinating agency, sending copies of the NOI to relevant federal, state, and local agencies and citizen groups. The Energy Commission holds informal, nonadjudicatory hearings on the NOI while conducting its own research on the proposal. Unless the Energy Commission and the sponsor agree on a time extension, the commission must issue its decision on the NOI within 12 months of its submission.

If the commission approves the NOI, the applicant proceeds to the second phase, which is to file the Application for Certification (AFC). The AFC is distributed to local, regional, state, and federal agencies interested in the project for their review and input. At this stage, specific sites are identified, and in-depth studies by the commission in cooperation with the sponsor are begun for the environmental impact statements required by state and federal law. The Energy Commission acts as the lead agency in preparing the environmental impact report (EIR) required under California's Environmental Quality Act (CEQA). Where a federal EIS is required, the commission attempts to coordinate state and federal efforts by consolidating the information and hearings required for both documents. Although the Energy Commission takes lead responsibility for the EIR, it sends out information on the project to other state agencies like the Air Resources Board and Water Resources Board, which make their own independent reviews, just as they would if they were issuing PSD permits or NPDES permits separately.

The Energy Commission holds additional nonadjudicatory and evidentiary hearings on the AFC during this second phase. Other state or federal agencies may hold their own hearings as part of their review. All the agencies must submit their findings to the Energy Commission, which then decides, within 18 months of the filing of the AFC, whether to issue certification. Since geothermal plants have been given a priority by the legislature, the commission must rule on their AFCs within 12 months of filing. When the AFC is issued, it takes the place of individual approvals by the state agencies. The Energy Commission has authority under the Act to override other state and local ordinances and decisions, but the courts have construed this to require the commission to give substantial deference to local government opinions and laws. The Energy Commission does not have the legal authority to override federal requirements, even in cases where the state has been delegated the program. In practice such conflicts do not usually arise, since the process incorporates the views of other state and federal agencies into the review process.

In addition to receiving the AFC, if the facility is investor-owned (nonmunicipal), the applicant needs to obtain a Certificate of Public Convenience and Necessity from the PUC. The PUC's review concentrates on financial, rate, and reliability concerns, as opposed to the Energy Commission's review which one staff member described as a "site review."

Experience with the Reform

Since passage of the Warren-Alquist Act eight plants have been sited through the process. Seven of these were geothermal plants and one was a coal gasification plant. Staff from the Energy Commission believe that the process works well, significantly reducing time and paperwork.

DECISION-MAKING DEADLINES FOR DEVELOPMENT PROJECTS

A.B. 884 sets deadlines for agency review and decisions on development projects. "Development" is defined broadly to include placement or erection of any structure, waste discharge or disposal, mining, grading, dredging, or changes in the density or intensity of land or water use.

Permits/Agencies Affected

A.B. 884 applies to all state agencies issuing permits except the Energy Commission, which falls under the jurisdiction of the Warren-Alquist Act.

Administrative Process

Under A.B. 884 the Office of Permit Assistance (OPA) in the Office of Planning and Research (part of the executive branch) oversees the deadlines and reporting requirements of the law. The law requires the lead agency for a project to approve or disapprove the project within one year of the receipt of a completed application. The lead agency is the agency which under the California Environmental Quality Act takes primary responsibility for determining whether an EIR is necessary or for issuing a negative declaration. Other agencies that also must comment or issue a permit for the project must act within 180 days after the lead agency has made a decision, or within 180 days after the application is complete, whichever is longer. Furthermore, the Act specifies that if a permitting agency fails to act on the application within the given time limit, the permit is automatically approved.

When requested by an applicant or an agency, the OPA may designate lead agencies and assist in determining the responsibilities of other agencies. OPA staff often arrange conferences for applicants with agency personnel and can informally mediate disputes that arise.

Experience with the Reform

OPA staff report that the procedures under A.B. 884 result in the staff's receiving information on several thousand projects per year, of which they actively participate in about three to four hundred. One staff member commented that after working through some initial start-up problems, the procedure had expedited permitting a great deal. He did not feel that requiring more consolidation in the form of joint hearings was time effective or cost effective. According to him it is difficult to gather decision makers on all aspects of a project together in one place, and their concerns are so varied as to make one large hearing counterproductive.

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COLORADO

Joint Review
Decision-Making Deadlines

OVERVIEW

Colorado has established the Joint Review Process for Major Energy and Mineral Resource Development Projects. The joint review process is a mechanism for coordinating project review and schedule among local, state, and federal regulatory agencies. The process was established administratively in 1978 and has served as a model for similar efforts in Illinois and Tennessee. In a related effort, the Colorado Department of Natural Resources publishes the Colorado Permit Directory for Energy and Mineral Resource Development, which is updated twice a year.

Colorado law prescribes strict review and decision-making deadlines for all state air permits, NPDES wastewater permits, and regular mining permits.

JOINT REVIEW PROCESS FOR ENERGY AND MINERAL DEVELOPMENTS

Colorado's joint review process is initiated by the project applicant. It is designed to bring the applicant and the public together at an early stage in the development of a project in order to accomplish four goals: (1) to determine all applicable regulatory requirements; (2) to define agency and applicant responsibilities; (3) to specify a schedule for the various regulatory activities and proceedings; and (4) to enhance and improve public participation in governmental decision making. The process does not alter the substantive requirements or procedures of any agency. Rather, the process fosters early and constructive contact between the regulator and the applicant. This contact in turn results in more complete applications at the time of filing and better agency understanding of the project at the time of application consideration. The joint review process was established without statutory changes.

Permits/Agencies Affected

The joint review process can accommodate all local, state, and federal permits required for energy or mineral development, and therefore may include local land-use permits and state and federal permits for resource extraction, water use, and air and water pollution control. Federal, state, and local agencies all participate in the process on a voluntary basis, but the governor may direct state agencies to take part. In the first case to use the joint review process, 11 federal agencies were voluntary participants.

Administrative Process

The joint review process is initiated when the applicant requests the Department of Natural Resources (DNR) to undertake a joint review. The applicant's proposal and a preliminary recommendation supplied by the DNR go first to the governor's cabinet, which (with input from appropriate local and federal offices) makes a recommendation to the governor concerning the project's qualifications for joint review. The project must meet three criteria: (1) the project must be "a major energy or mineral resource development"; (2) the proposal must be submitted in an early phase of project development; and (3) the state must have sufficient staff and resources to support the joint review. The governor issues final approval for use of the joint review process. This decision can take up to one month.

The second stage in the joint review process involves the designation of a review team and the planning by the team of the permit review processes. A state agency (the DNR in all joint reviews thus far) is designated the lead state agency by the governor. This agency then consults with other agencies in order to obtain commitments to participate and to designate lead local and federal agencies. The lead local and federal agencies are usually those with the greatest regulatory responsibilities for the project.

The project team is composed of the applicant and the designated lead agencies. Currently, lead federal agencies are the U.S. Forest Service, the USGS, the EPA, and the BLM.

Each lead agency represents the agencies on its level of government in the subsequent discussions of scheduling and application requirements. The team members sign a joint agreement which publicly commits the three levels of government and the applicant to participate fully in the joint review process. All agencies (in addition to the team members) participating in the overall review process sign a statement of responsibilities, which carefully documents the regulatory, coordination, and support responsibilities of all participants. For example, in the Rio Blanco oil shale project, a statement of responsibilities was signed by 4 local, 23 state, and 9 federal agencies as well as by the proponent. The joint review team then develops a project decision schedule and conducts public meetings in order to present the project to the public and to define the issues of major concern. This second stage of the joint review process typically consumes about eight months; however, the process is flexible to accommodate the pace at which the proponent intends to pursue its permits.

The third stage is the implementation of the project decision schedule. The schedule melds the regulatory reviews, preparation of an Environmental Impact Statement (if necessary), public hearings, the completion of the applicant's design and feasibility studies, and the administrative processes of joint review into one logical sequence of events. The schedule is not legally binding; however, a project decision schedule agreement is signed by all involved government agencies and the proponent. The joint review team monitors any changes made by the individual agencies and revises the decision schedule accordingly.

Experience with the Reform

Thus far, seven projects have been accepted into the joint review process. The projects include a molybdenum mine and mill, the nation's first nahcolite mine, Colorado's first coal-to-methanol plant, and four major oil shale developments. AMAX, Inc.'s Mount Emmons molybdenum mine and mill was the first project to utilize the process. The project decision schedule is currently being implemented; however, project construction has been pushed back for economic reasons. Rio Blanco Oil Shale Co.'s surface retorting demonstration project has also been delayed for economic reasons. Despite these and other project delays, project proponents have not cited the joint review process or other regulatory processes as causing the delays. None of the projects that have formally applied to the Department of Natural Resources for use of the joint review process have been rejected, but some projects that have approached the DNR informally have been redirected to the ordinary state permitting process. Joint preapplication meetings have been used extensively. Joint public hearings have also been held. In one case thus far, a modified master application was used.

DECISION-MAKING DEADLINES FOR AIR AND WATER PERMITS

Colorado has established specific administrative deadlines for the review and issuance of all state air permits (Colorado Air Quality Control Act, Colo. Rev. Stat. § 25 (7) (114)). All state air permits are issued by the Colorado Department of Health, Air Pollution Control Division. The law prescribes deadlines for determining if the application is complete, performing analysis, issuing notice of a public comment period, accepting public comments, and reaching a final decision. Final decisions on major sources must be made within 135 days of the filing of a complete application. Cases that do not require a public comment period must be decided within 95 days. If the agency fails to meet these deadlines, the permit must be approved, but the agency can negotiate with the source to extend the deadlines. The deadlines will apply to PSD permits when that authority is delegated as expected in 1982.

In July 1981, Colorado established administrative deadlines for the delegated NPDES wastewater permits in the Water Quality Control Act (25 Colo. Rev. Stat., Art. 8 (1973) (as amended in July 1981)). The statute requires that the Colorado Department of Health's Water Quality Control Division: (1) rule on the completeness of applications within 45 days of their submittal and (2) either deny or issue a temporary permit within 180 days of the submittal of the completed application.

ADDITIONAL COMMENTS

The joint review process was developed by the Department of Natural Resources under a Department of Energy grant issued in 1978. The Colorado General Assembly now allots funds for operation of the joint review process on a yearly basis. A DNR representative suggested that some sort of fee system may be proposed in the future.

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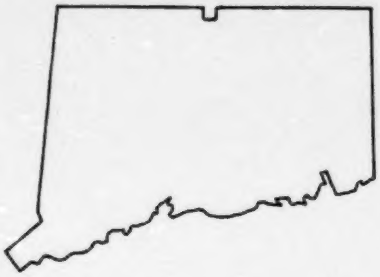

CONNECTICUT

One-Stop Permitting
Decision-Making Deadlines
Permit/Application Coordinator

OVERVIEW

Connecticut's major permitting innovation is the Connecticut Siting Council, a body with exclusive authority over all state permitting for the siting of energy, telecommunication, CAT (community antenna television towers), and hazardous waste facilities.

For other industrial project applicants, the Department of Environmental Protection's Office of Adjudications performs informal permit coordination services.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR POWERPLANTS AND HAZARDOUS WASTE FACILITIES

In 1971, Connecticut passed the Public Utilities Environment Standards Act (Conn. Gen. Stat. Annotated, §§ 16-50 et seq.) which established a Power Facility Evaluation Council. In 1981 the legislature passed the Hazardous Waste Facilities Siting Act (Public Act 81-369) which changed the council's title to Connecticut Siting Council and added to its jurisdiction the responsibility for certifying hazardous waste facility sites. The two laws are very similar in their procedural elements. For instance, both laws gave exclusive jurisdiction to the council for issuing state siting permits, imposed procedural and decision deadlines, and gave the council override over all local ordinances and regulations.

All energy transmission facilities (minimum capacity 69 kilovolts) and all generation, telecommunication, CAT, and future hazardous waste management facilities (where it is the primary business) must be certified by the Siting Council.

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Permits/Agencies Affected

Prior to the construction of energy and telecommunication facilities, the Connecticut Siting Council must issue a Certificate of Environmental Compatibility and Public Need. Before the construction of hazardous waste facilities, the council must issue a Certificate of Public Safety and Necessity. These certificates replace all other state and local permit requirements except for local zoning approval.

The Siting Council is composed of seven permanent members, five of whom are appointed by the governor and two by the legislature; two commissioners of state agencies, which vary depending on whether the council is reviewing an energy/telecommunications site (Environmental Protection and Public Utility Control departments) or a hazardous waste site (Health Services and Public Safety departments); and in the case of hazardous waste applications, four ad hoc representatives from the site and neighboring municipalities.

Prior to the commencement of any hearing, the council must consult with and solicit written comments from the following state departments: Environmental Protection, Health Services, Public Utility Control, Economic Development, Public Safety and Transportation, the Office of Policy and Management, and the Council on Environmental Quality.

Administrative Process

Upon receiving an application for generating plants and transmission lines, the council must set a hearing to be held within 150 days (180 for hazardous waste). Prior to the hearing, the council must issue a public notice and circulate the application among the state agencies named above as well as among state officials, affected municipalities, and various state and local commissions.

For each type of facility, the council must consider a variety of environmental, safety, proof-of-need, and community impact criteria in deciding whether to issue a certificate or not. Applicants for hazardous waste facilities must also demonstrate financial liability and community incentive plans. The council must render a decision within 10 months for generating plants and transmission lines, one year for hazardous waste, and 120 days for telecommunication towers and CAT (with a possible 60-day extension).

The Connecticut Siting Council holds final authority over the location of facilities and has override powers over local zoning decisions. For powerplants, override is possible by a vote of six out of nine members; for hazardous waste facilities, eight out of thirteen votes are required.

Experience with the Reform

In its ten-year life span, the Power Facility Evaluation Council has reviewed twenty-five full applications. Only one application was for a powerplant; the remainder were for transmission lines, CATs, and telecommunication towers. All but two or three applications were approved. The new hazardous waste siting legislation has not yet been implemented.

PERMIT/APPLICATION COORDINATOR

For the past three years, the Connecticut Department of Environmental Protection (DEP) has had an industrial permit coordinator located in its Office of Adjudications. All applicants may use the permit coordinator's services.

Permits/Agencies Affected

The permit coordinator will informally assist an applicant with any state environmental permit. All state environmental permits, including those for air and water quality, solid and hazardous waste, and wetlands, are issued by separate units within the DEP. The coordinator does not track local or federal permits, except the NPDES program delegated by the federal EPA to the DEP.

Administrative Process

Applicants usually come in contact with the permit coordinator through word of mouth or by writing to the DEP commissioner for permit information. The Connecticut Department of Economic Development also forwards requests for permit information.

The coordinator will set up informal preapplication meetings for applicants with the various state permitting staffs and provide applicants with the Permit Authority Index. Applicants must apply for permits separately from each unit.

However, if applicants have trouble with particular permits, they may request that the coordinator informally act as ombudsman.

Experience with the Reform

The industrial permit coordinator reports that he gets inquiries from potential applicants several times a month.

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DELAWARE

Permit/Application Coordinator

OVERVIEW

In 1978, the Delaware General Assembly enacted legislation entitled the Land Use Planning Act for purposes of achieving consistency and coordination between the various levels of government and between government and private enterprise. The Act also provides for the examination of regulatory and review agencies for purposes of improved coordination and streamlining of such processes.

In order to address the mandate of the Land Use Planning Act, the Delaware Department of Natural Resources and Environmental Control (DNREC) has been examining its own permit and review processes, and during 1981 proposed to establish a Development Advisory Service (DAS) to assist applicants whose projects require more than one state or federal permit.

Because of reorganization legislation that was enacted by the Delaware General Assembly in November 1981, the administration of the Land Use Planning Act, Coastal Zone Act, Coastal Management Program, and Permit Simplification was transferred from the former Office of Management, Budget, and Planning to the Department of Natural Resources and Environmental Control.

The DAS has been established since this reorganization and the DNREC is in the process of developing a concerted effort toward making people aware of the DAS and what it can provide at an early stage in the development process (e.g., distributing brochures to banks and realtors for dissemination to prospective developers and giving presentations to local planning and zoning commissions).

PERMIT/APPLICATION COORDINATOR

The DAS is a pool of public officials qualified to assist applicants in complying with permit requirements. The service is available to applicants with projects that require more than one permit.

Permits/Agencies Affected

The DAS coordinates all state and federal permits in the areas of air, water, solid waste, NPDES, fish and wildlife, sediment and erosion, state parks and public lands, wetlands, and hazardous waste, as well as permits in special areas such as the coastal zone and Land Use Planning Act.

Administrative Process

The advisory service builds on informal policies that were already in place in the DNREC.

The department has assigned one contact person in the Division of Environmental Control to be responsible for coordinating meetings of the DAS, reviews of permit requests, and related activities regarding assistance to the applicant and streamlining the permit process. The contact person for DNREC works closely with the liaison person from the Delaware Development Office in providing assistance to prospective applicants interested in obtaining permits for industrial and commercial developments.

If a project involves wetlands or subaqueous lands, the coordinator may refer the applicant to the department's Wetlands Section for purposes of presenting his proposal to the Wetlands/Corps of Engineers Section 404 joint processing meeting which is held every month.

The service is also available to applicants at any time during the permit process. Reasons for additional coordination could include changes in project design, new permit requirements, and discussion or resolution of issues or conflicts.

Since the service has just recently been established, the department is currently advising local jurisdictions, applicants, and prospective applicants of the service through the Land Use Planning Act and related programs and activities.

A guidebook to permit regulations for business locations was published last year and distributed throughout the state. The book is available to new applicants.

Experience with the Reform

Figures for the number of permits that could utilize the proposed service each year can be roughly estimated at 50. The service will provide faster, more efficient processing of permits and might be particularly useful for large residential construction projects.

Although the service is new, the department has already received very favorable responses from local jurisdictions, state agencies, and applicants who have been advised of it.

ADDITIONAL COMMENTS

Currently, the total administration of the department is not housed under one roof, but it will be by 1983. After relocating to its new building, the department proposes to centralize its permits and license application points within the facility.

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FLORIDA

One-Stop Permitting
Decision-Making Deadlines

OVERVIEW

Florida's efforts to streamline and coordinate the permitting process fall under three separate statutes: The Power Plant Siting Act (PPSA), the Industrial Siting Act (ISA), and the Transmission Line Siting Act (TLSA). Although the three acts differ in their applicability, they provide for the same general process, which can be categorized as one-stop permitting.

In addition to this legislation, some coordination exists between the state certification process and federal permitting programs through a Memorandum of Understanding with Region IV of the Environmental Protection Agency. Wherever possible, joint permit applications and joint hearings between the two government levels occur for a major industrial or energy project. A joint application between the state and the Army Corps of Engineers for the 404 dredge and fill permit is also employed.

Because the Power Plant Siting Act is the most frequently used of the three legislative processes named above, it serves as the model for the one-stop permitting process described below. Ways in which the Industrial Siting Act and the Transmission Line Siting Act differ from the PPSA are then highlighted separately.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR POWERPLANTS

The Power Plant Siting Act (Fla. Stat. 403.501-517; 1973) sets up a process to coordinate long-range planning and permit

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applications for electric utilities. The key procedural elements in this process are (1) a single certification hearing by an independent hearing officer in lieu of separate permit applications, (2) specific review deadlines, and (3) a certification decision by a siting board composed of the governor and his or her cabinet. The process is mandatory for all powerplants whose size or capacity exceeds 50 megawatts, and optional for powerplants below that size.

Permits/Agencies Affected

Nearly all state and local air, water, and waste permits required for new powerplant facilities are affected by this process. Among these are water pollution, sewage treatment and disposal, industrial wastewater treatment and disposal, consumptive water use, surface water management, air quality, and coastal construction permits. On the other hand, local building permits are excluded and federal permit requirements are not specifically incorporated into the legislation. However, by means of the Memorandum of Understanding described above, joint federal/state permit applications and hearings may occur.

The Department of Environmental Regulation (DER) serves as coordinator of the process, and the Public Service Commission (PSC), the Department of Veteran and Community Affairs (DVCA), and the local water management district (WMD) are always parties to the proceedings. Other government agencies may request participation in the process.

Administrative Process

All Florida utilities must submit to the DVCA annual ten-year site plans which estimate their power generating needs and the general location of proposed powerplant sites. The DVCA classifies each plan as suitable or unsuitable and submits its findings to the DER as a prerequisite to the certification process.

Once a utility has filed an application for a powerplant site, the legislation calls for a number of procedural steps and review deadlines to accelerate the certification process. Some of these are (from the date of application) the following:

- The DER must designate the application complete or incomplete within ten days.

- The DER must commence all studies required by statute regarding the suitability of the site within 30 days. The DER considers such criteria as land use, accessibility, environmental impact on air and water quality, and technical sufficiency of operational safeguards. These studies must be completed within seven months.

- The DER (through a designated hearing officer) must conduct a local land-use hearing within 90 days. The hearing officer must submit a written order within 30 days of the hearing.

- The DER must submit a final report to the hearing officer within eight months. Along with the DER's recommendation on the proposal, this report includes findings from all studies that were conducted, comments from other agencies regarding such issues as the need for the site and its compatibility with state plans, and any other comments submitted by interested parties.

- A certification hearing must commence by the tenth month. The applicant, the DER, the PSC, the DVCA, and the WMD always participate in this hearing. Other agencies, local governments, and interested members of the public may participate if prior approval is granted.

- The hearing officer must submit a recommended order to the siting board within 12 months.

- The board must issue an order to approve, modify, or deny the site application within 14 months.

Experience with the Reform

As of September 1981, twelve facilities had been permitted under the Power Plant Siting Act and two are in process.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR INDUSTRIAL PROJECTS

The Industrial Siting Act (Fla. Stat. 288.501-.518; 1979) is an effort to expedite permit decisions for industrial projects. The process is modeled after the PPSA, although it varies in a few key ways. Foremost among these is that the process is optional for eligible applicants. Any business that has the potential for creating 50 or more full-time jobs and requires more than one permit is eligible.

In addition, the processing time for reports, hearings, and decisions is shorter under ISA than under PPSA. For instance, the certification hearing must occur within four months of filing compared with PPSA's ten-month deadline, and the entire process must be completed within six months versus PPSA's fourteen-month time frame.

The ISA addresses the permit system at the state level only. Local governmental approvals are not included, unlike in the PPSA.

Finally, unlike with the PPSA, no industrial facility has yet applied to the state to utilize the procedures of the ISA. Instead, project sponsors have exercised the option to work through the old permit-by-permit system.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR TRANSMISSION LINES

The Transmission Line Siting Act (Fla. Stat. 403.520-535; 1980) is intended to provide an efficient and centrally coordinated permitting process for the location and maintenance of electrical transmission line corridors and the construction of transmission lines. Most major transmission lines that will carry 230 kilovolts or more and that will cross a county line are required to follow the certification process.

This process is also modeled after the PPSA, although its time frame of six months parallels that of the ISA. Currently, one certification has been approved under the TLSA.

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GEORGIA

One-Stop Permitting

OVERVIEW

Georgia has a one-stop permitting process for environmental permits issued by the Department of Natural Resources, Division of Environmental Protection.

ONE-STOP PERMITTING

This process enables concurrent processing of air, water, and solid and hazardous waste permits issued by the Department of Natural Resources, Division of Environmental Protection. Applicants requiring any or all of these permits for an energy or a construction project are eligible.

Permits/Agencies Affected

The state issues all the environmental permits for which it has authority through its Environmental Protection Division. These include NPDES permits, air permits under the Clean Air Act, and RCRA (Phase I) permits for hazardous and solid wastes.

Administrative Process

For information about a permit, an applicant may contact any one of the branches of the Environmental Protection Division (EPD), such as the Water Protection Branch or Air Protection Branch. Within each branch there is a program coordinator who informs the applicant what other permits are necessary and arranges concurrent reviews for those permits. The program coordination branch gathers, analyzes, and combines all the permit information and recommendations into one package. The director of the EPD then reviews the information and approves or denies all the permits at once. State law specifies that only the director of the Division of Environmental Protection has the authority to approve permits.

Experience with the Reform

Staff members from the Department of Natural Resources believe that a key to Georgia's success in economic development programs has been the one-stop permitting process. They say it provides expeditious, predictable administration of environmental laws.

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HAWAII

Permit/Application Coordinator
Joint Hearing
Joint Application
Computer Tracking

OVERVIEW

The Hawaii state government has developed and continues to explore a variety of mechanisms aimed at streamlining the environmental permitting process. The legislature passed a bill in 1977 which established countywide central coordinating agencies for land-use permits. Currently the state is bringing on-line a comprehensive computer tracking system to be implemented at both the state and the county level.

In addition, Hawaii sponsored the publication of numerous permit directories. The Coastal Zone Management office is in the process of revising a directory of local, state, and federal permitting agencies which was first prepared by the Federal Executive Board.

The Coastal Zone Management office is also the lead agency on an Interagency Task Force for State Permit Simplification. In March 1981 this committee released a preliminary report of findings and recommendations.

PERMIT/APPLICATION COORDINATOR, JOINT HEARING, AND JOINT APPLICATION FOR LAND-USE CONTROLS

The Hawaii Legislature passed a bill in 1977 (Chapter 46, HRS) which mandated that each of Hawaii's four county governments establish a central coordinating agency (CCA). The CCAs act primarily as information sources for land-use rules, regulations, and permit applications. In addition, they provide a variety of coordinating services.

Anyone may request information from a CCA. Applicants requiring more than one permit are encouraged to use the CCA's coordinating services.

Permits/Agencies Affected

The city and county of Honolulu established its CCA in the Department of Land Utilization. Because the Honolulu CCA is the largest and most sophisticated of these agencies, it will be the model discussed here. The CCA provides information on and attempts to coordinate with other local, state, and federal permitting agencies which have control or regulatory powers over land development projects.

Administrative Process

According to the enabling legislation, the CCA has the following three responsibilities:

- To maintain and administer a repository of all laws, rules and regulations, procedures, permit requirements, and review criteria of all federal, state, and local agencies having any control or regulatory powers over land development
- To maintain and administer a master file of active applications for building permits and subdivisions, petitions for changes in state land-use districts, and general plan or development plan amendments within the county
- Upon request by the applicant, to attempt to schedule and coordinate referrals, public information meetings, or public hearings with other federal, state, or county commissions or agencies

In addition to carrying out these duties, the Honolulu CCA has studied alternative methods for streamlining the permit process. It has developed for the Department of Land Utilization a master application form which covers seventeen different kinds of land-use permits. The Honolulu CCA is also bringing on-line a computerized permit register and monitoring system which is independent of the HPASS system described below. The system, which will be operational in late 1982, will monitor the status of permit applications and provide a complete land-use control inventory.

Experience with the Reform

The Honolulu CCA has provided extensive information services to the general public. In 1980, nearly 9,000 people visited its public information counter, and over 20,000 phone calls were made to it. During 1980 the CCA monitored almost 400 permits to ensure that applicants satisfied all permit conditions. Where possible, the CCA has conducted joint hearings among different permitting bodies and has worked to coordinate the timing of different regulations.

COMPUTER TRACKING

The Hawaii Permit and Application Support System (HPASS) is currently being brought on-line for the purpose of monitoring environmental permits.

Permits/Agencies Affected

Each county government and state agency in Hawaii will have a computer terminal for tracking permits. The initial system will include information on the following types of permits and reviews: the coastal zone special management area permit; the land-use conservation district use permit; the shorewaters use permit; the state air, ground water and waste permits; the delegated NPDES permits; the state EIS; the A-95 Notification and Review; and the Coastal Zone Management Federal Consistency Review.

Administrative Process

Initially, HPASS will be used to monitor existing permits and ascertain patterns of noncompliance. The state plans to expand the system to include permit applications and an environmental data base.

Experience with the Reform

HPASS will be on-line in late 1981.

ADDITIONAL COMMENTS

In June 1980 the governor of Hawaii established the Interagency Task Force for State Permit Simplification and requested that it develop and prepare recommendations for improving the regulatory efficiency of state land and water development permits. The task force consists of a working committee, which consists of agency staff involved in day-to-day permit program administration, and a policy committee, made up of state department and commission directors.

The task force released a preliminary report in March 1981 containing short-term and long-term recommendations for streamlining procedures.

Over the long run, the task force proposed that the state do the following:

- Standardize or expand the lists of exceptions endemic to individual state-level regulatory processes
- Distinguish between major and minor development and establish procedures to expedite minor projects
- Develop an interagency system of preapplication review for major state development permits
- Simplify, streamline, and coordinate public hearing requirements between state agencies

For the short term, the task force recommended numerous program-specific measures. These include memoranda of understanding between agencies in order to improve coordination, organizational changes to eliminate confusing and overlapping jurisdiction, master application forms at a department level, coordination of time frames, etc.

The task force is currently collecting feedback from state agencies and will incorporate it into a final report. In the future the task force intends to study the issue of local, state, and federal coordination.

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IDAHO

OVERVIEW

Idaho has not implemented any programs or passed any legislation to formally consolidate permitting processes within the state. However, some informal coordination does occur in permitting such projects as small hydroelectric facilities and dredge and placer mining activities.

In some cases, project sponsors need only submit one application to obtain two permits. For instance, an applicant proposing to drill for oil or gas may complete one application for both the oil and gas drilling permit issued by the Department of Lands and the injection well permit issued by the Department of Water Resources. The same coordination might occur for an applicant seeking stream alteration permits from the State Department of Water Resources and the federal Army Corps of Engineers.

Occasionally, the Public Utility Commission and the Department of Water Resources will conduct joint hearings for proposed hydro projects.

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ILLINOIS

Joint Review
Site Inventory/Banking
Permit/Application Coordinator
Joint Hearing
Decision-Making Deadlines
Joint Application

OVERVIEW

Illinois has made several distinct efforts to streamline and coordinate the permitting process. The Illinois Department of Energy and Natural Resources (ENR) is implementing the Illinois Coordinated Review Process (ICRP). This process, which is modeled after the Colorado Joint Review Process, facilitates permitting of major non-nuclear energy projects by encouraging local, state, and federal government agencies to plan a coordinated review schedule early in the development of a project proposal. In another effort, the ENR has performed an environmental siting study to identify favorable sites for coal gasification and synthetic fuels facilities. The ENR is also in the process of preparing a permit directory for energy development projects.

The Illinois Environmental Protection Agency (IEPA) uses the Coordinated Permit Review Program to coordinate and integrate some functions in the permit reviews of the divisions within the agency. The process, available for all significant construction projects, incorporates preapplication conferences, joint notification, integrated hearings, and a single IEPA decision on the total permit application. The focuses of the ENR and IEPA processes are different: the ENR joint review includes all permits for non-nuclear energy projects while the IEPA program coordinates state evironmental permits for all major projects.

State statute establishes strict deadlines for the review of applications for all state environmental permits. Failure to meet these deadlines results in automatic granting of the permit.

The Illinois Environmental Protection Agency has also implemented a master application for construction projects in waterways or flood plains. The single form is processed by three state agencies and the U.S. Army Corps of Engineers.

JOINT REVIEW OF NON-NUCLEAR ENERGY PROJECTS

In April 1981 Governor James R. Thompson issued Executive Order No. 3, which directed the Department of Energy and Natural Resources to expedite the regulatory process for major non-nuclear energy projects. In response to this order, the ENR developed the Illinois Coordinated Review Process. The process is designed to coordinate the responsibilities and schedules of the federal, state, and local agencies involved in the review of project applications. However, the process does not alter either the substantive or the procedural requirements of these agencies. Streamlining mechanisms like joint hearings, master applications, and regulatory deadlines may be utilized by the review team in individual cases, but such mechanisms are not a mandatory part of the review process. Use of the Coordinated Review Process by the project sponsor is voluntary.

Permits/Agencies Affected

The process can accommodate any permit that is needed in order to construct a major energy project in Illinois (including air, water, solid waste, etc.). However, since agency participation is voluntary, local and federal agencies can choose not to participate in the coordinated review process. State agencies are required by the governor to participate.

Administrative Process

Energy project developers can voluntarily choose to participate in the coordinated review process. The developer first submits a formal letter requesting participation in the ICRP, a completed project summary questionnaire, and/or descriptive data on the project to the Department of Energy and Natural Resources. The ENR screens the proposal to determine that: (1) the project is a major energy development and (2) the proposal is in the beginning stages of the planning and regulatory approval process. The ENR prepares a pre-recommendation report and submits it to the Energy Review Board, consisting of the directors of seven key state agencies. The Energy Review Board, in turn, makes a recommendation to the governor, and if the governor agrees that the project qualifies for coordinated review status, he specifies the state participants. These steps typically take about one month.

The project-specific review team, made up of the project sponsor and one lead agency from each of the local, state, and federal governments, has primary responsibility for the coordination role. The review team documents agencies' commitments to participate, delineates regulatory responsibilities, and establishes a detailed review schedule which coordinates the various agency reviews. The review team also sponsors public information meetings and scoping meetings prior to the start of the agency reviews.

The governor assigns the state lead agency, which in most cases is expected to be the ENR. The federal and local lead agencies are chosen by consensus from among the agencies at each level. The lead agency is generally the party with the greatest interest in the project. The federal lead is typically taken by the agency with responsibility for preparing the Environmental Impact Statement (EIS) or, if no EIS is needed, by the agency with the greatest permitting responsibility. The local lead agency is typically the county or municipal governmental unit. Other interested governmental units such as regional planning commissions may also seek an active role in the ICRP team activities. The review team members are responsible for determining the needs of the agencies in the government they represent and assimilating their requirements into the coordinated review plan. Inclusion in or exclusion from the review team does not affect agency authority concerning the review of the proposed project.

Experience with the Reform

The Illinois Coordinated Review Process is being developed in response to an Executive Order issued in April 1981. Although the preliminary program design was completed in June 1981, the final program preparations were not to be completed until the end of 1981. Thus far, several projects have expressed interest in using the program, and one company has formally applied for consideration.

SITE INVENTORY/BANKING

The Illinois Department of Energy and Natural Resources has performed an environmental siting study and released a report identifying areas suitable for construction of coal gasification and synthetic fuels facilities. Site areas were screened on the basis of a number of environmental criteria, including air quality, water quality, geotechnical suitability, and socioeconomic impacts. The final study includes broad areas that are designated as favorable, potentially favorable, potentially favorable with conditions, or restricted. The study will be used by ENR staff to help synthetic fuel developers identify appropriate sites on which to construct facilities.

PERMIT/APPLICATION COORDINATOR AND JOINT HEARING FOR CONSTRUCTION PROJECTS

Coordinated Permit Review is a process for coordinating construction project permit reviews conducted by the four permitting offices within the Illinois Environmental Protection Agency. The key to the program is the creation of a Coordinated Permit Review Group, consisting of one representative from each of the IEPA's permitting divisions, which meets with the project sponsor to establish permit and application requirements, resolves internal jurisdictional disputes, and conducts joint public notice and hearing activities. The procedures were developed by the IEPA under the permitting authority granted in the Environmental Protection Act (Ill. Rev. Stat. Ch. 111-1/2 1039).

The process is available for projects requiring construction permits from two or more of the IEPA divisions dealing with air, water, land, and public water supplies. The project must also be "significant," a term which is defined in the regulations. A project is significant, for example, if the uncontrolled air emissions will be 100 or more tons per year of any contaminant or if the emissions include hazardous or toxic pollutants. Participation by eligible projects is voluntary.

This program has broader eligibility than the coordinated review process described above. The Coordinated Permit Review Program is open to any significant construction project while the coordinated review process is open only to non-nuclear energy developments. In the case of energy projects, the

Coordinated Permit Review Program can be incorporated into the broader framework of the coordinated review process.

Permits/Agencies Affected

The four permitting divisions within the IEPA--Air Pollution Control, Water Pollution Control, Land/Noise Pollution Control, and Public Water Supplies--are required to participate in the Coordinated Permit Review Program. The procedure does not include other state agencies, local regulators, or federal regulators. The process applies to all environmental permits for construction projects issued by the IEPA, including state air, water, solid waste, and drinking water, as well as PSD, NPDES, and SDWA permits delegated by the federal Environmental Protection Agency to the IEPA. The small number of environmental permits issued by other state agencies, such as the departments of Conservation and Transportation, are not included in this process.

Administrative Process

When an eligible project sponsor approaches the IEPA to use the coordinated review process, one representative from each division is chosen for the review group, and a project coordinator is chosen from this group. The group first holds a preapplication meeting with the sponsor to determine which permits are needed and to outline information requirements for applications. A project report is filed, including a description of the project and proposed pollution control systems, followed by the more detailed "total project application."

During the review process, in which the application is reviewed internally by each division, the review group meets to resolve any jurisdictional conflicts and conducts joint public notification. IEPA hearings deal with the full scope of the project's environmental impacts, rather than focusing on qualifications for a single permit.

Unless all requested permits are approved by the individual divisions, none of the IEPA permits will be issued. If all divisions concur on the total permit application, all permits are granted.

Experience with the Reform

The review process regulations were adopted in November 1979. Since that time one project, a low Btu coal gasification project, has completed the process. About six other projects ranging from hazardous waste treatment facilities to powerplants are currently at some stage in the process.

DECISION-MAKING DEADLINES

The Illinois Environmental Protection Act (Ill. Rev. Stat. Ch. 111-1/2 1039) requires the IEPA to either grant or deny permit applications for any IEPA permits within 90 days of the filing of a completed application. For cases in which public hearings are necessary, the deadline is extended to 180 days from the filing of the complete application. The permit is automatically granted if the agency fails to act within these statutory deadlines.

JOINT APPLICATION FOR CONSTRUCTION IN WATERWAYS AND FLOOD PLAINS

The Illinois Environmental Protection Agency has created a single permit application form for construction activities in waterways or flood plains. The four agencies utilizing the application are the Illinois Environmental Protection Agency (Section 401, Clean Water Act), the Illinois Department of Transportation (Division of Water Resources waterway regulation under the Rivers, Lakes, and Streams Act, Illinois Revised Statutes, Chapter 19, §§ 52 et seq.), the Illinois Department of Conservation (review of fish and wildlife impacts under the Fish and Wildlife Coordination Act, 16 U.S.C. 661-664), and the U.S. Army Corps of Engineers (Section 404, Clean Water Act). The single application must be filed with all four offices. The permit reviews are conducted independently by each agency, but if the application is submitted to each agency at the same time, concurrent review is possible.

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INDIANA

OVERVIEW

There is no consolidation of state environmental permits in Indiana. The Stream Pollution Control Board, Air Pollution Control Board, and Environmental Management Board are separately responsible for approving water, air, and solid waste permits. The Indiana State Board of Health provides staff support to these boards.

Informal intra-agency coordination does occur in several program areas. Staff in the areas of air, water, and solid waste frequently consult one another regarding permit issuance, particularly where toxic substances are involved. The State Office of Surface Mining expects to coordinate strip-mine permitting with the state-delegated NPDES program in the future.

The State Board of Health has hesitated to institute formal coordination measures such as one-stop permitting out of fear that such measures would increase permit delays.

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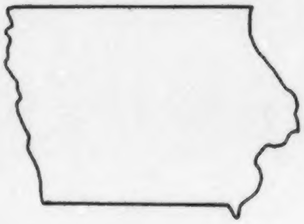

IOWA

One-Stop Permitting

OVERVIEW

The major permitting reform in Iowa has been the establishment of one-stop permitting for the construction of large powerplants. In addition, state agencies try to make decisions on permits promptly after application, though there is no formal deadline. For the three utilities that have gone through the entire one-stop process and been granted certificates, the average time was approximately 16 months from initial partial application to certificate.

ONE-STOP PERMITTING FOR POWERPLANTS

Iowa uses one-stop permitting in regulating the construction of powerplants with capacities greater than 100 megawatts. For such powerplants, the state conducts, under the authority of the Iowa State Commerce Commission, a unified application and hearing process encompassing all state and local permit requirements. This process allows a utility to submit a single application and to participate in only one hearing in order to obtain the required comprehensive construction and operation permit. Proposed facilities that meet the eligibility requirements must use the one-stop process. The procedures and authorities are prescribed in Chapter 476A, Code of Iowa (1981).

Permits/Agencies Affected

The Commerce Commission's Certificate of Public Use, Convenience, and Need functionally aggregates all state and local permits and licenses for powerplant construction and operation, although the individual agencies do continue to issue permits as part of the certification process. The major permits affected by the commission's one-stop permitting are the following:

- Air, water, and solid waste permits required by the Department of Environmental Quality (DEQ), including RCRA, NPDES, and SDWA permits
- Permits for water use and flood plain construction issued by the Natural Resources Council
- The Conservation Commission's permit for construction in a navigable stream
- Compliance with city or county zoning ordinances

As prescribed in the Iowa Code, the Commerce Commission cannot grant a certificate unless all state and local regulatory requirements are met. However, agencies that fail to participate in the commission's hearings are assumed to have no objection to the application and may be ordered by the commission to issue the relevant permits. Some state agencies, notably the Bureau of Labor, have chosen not to participate in the unified hearings and have thus lost their authority to deny required permits. The Iowa Code also prohibits the imposition of further regulatory requirements by any state or local agency after the certificate is granted. Finally, the commission can overrule city and county zoning authorities, although the commission has never utilized this power.

Administrative Process

The procedures for processing applications for construction of large powerplants are outlined in Chapter 476A in the Iowa Administrative Code. The process begins with the utility's submittal of its master application. The commission circulates the application to all regulatory and interested agencies and seeks their input in determining if sufficient information for commencing a hearing has been provided. The commission has allowed itself 45 days to determine if an application is complete.

After the application is complete, a unified hearing is held. This hearing is in lieu of any other hearing required for permits or licenses to construct, maintain, or operate a facility. The formal hearing is conducted by a commerce commissioner and a hearing officer from the regulatory agency concerned with the particular substantive area. State and local officials must present any objections in these proceedings, and dissatisfied agencies are required to propose amendments that could bring the application into compliance. The requirements of agencies which fail to appear are presumed to be satisfied.

Following the hearings, the participating agencies render permit decisions based on the final application. The commission then issues the certificate based on the agency actions and its own findings. When the certificate is issued, the permits issued as a result of this joint review process are included in the certificate along with any conditions they might impose. There are no decision-making deadlines specified, although the statute directs the commission to "render a decision on the application in an expeditious manner" (Chapter 476A.6, Code of Iowa). In addition, the statute (Chapter 476A.2) signifies that there be one-stop judicial review. Appeals must be brought against the entire certificate and not against individual permits.

Experience with the Reform

Five facilities have used this permitting process. In four cases the utilities were issued certificates; in the fifth case the certificate was denied because of a failure to establish public need for the power to be generated. Three utilities completed the whole process, which from initial notification of the commission to the issuance of the certificate took about one and one-half years. The fourth utility requested and received a significant alteration certificate for an existing facility.

The interpretation of Chapter 476A was the subject of a 1979 court action between the DEQ and the Commerce Commission (Polk County District Court Docket Nos. CE 11-6046 and CE 11-6082). The DEQ issued conditional permits in the air pollution and waste water areas. The commission used these conditional permits as indications that the DEQ's regulatory requirements had been met and issued a certificate. The court found that the commission had acted properly and that the DEQ could not require further permits.

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KANSAS

OVERVIEW

Kansas has taken no formal steps to streamline application reviews for environmental permits. However, informal mechanisms such as preapplication meetings and project "managers" are used for some projects. These informal practices are effective because all state environmental permits other than pesticide and coal mining licenses are issued in a single agency, the Kansas Department of Health and Environment (DHE). The preapplication meetings are an opportunity for the applicant to present the project to DHE officials and for DHE officials to outline the permit requirements and distribute application forms for the various permit programs. Project managers serve as the state contact for the applicant. These practices are used whenever practical to minimize application review time.

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KENTUCKY

Computer Tracking
Permit/Application Coordinator

OVERVIEW

Kentucky's Department for Natural Resources and Environmental Protection (DNREP) has initiated and continues to explore administrative measures to improve the environmental permitting process. The department's Bureau of Surface Mining Reclamation and Enforcement has a computerized permit tracking system, and early in FY1982 the DNREP will implement a coordinated priority application procedure for certain types of project applicants.

In addition to initiating these measures, in FY1981 the DNREP consolidated its water programs, which had previously been split between the Bureau of Environmental Protection (BEP) and the Bureau of Natural Resources (BNR), into the BEP. Also, all the offices of the BEP were relocated from three physically separate sites into one building. Although these actions have not reduced the number of necessary permits or applications, they do promote consistency and better communication.

COMPUTER TRACKING OF SURFACE MINING PERMITS

The Bureau of Surface Mining has implemented a computerized permit tracking system as part of a Surface Mining Information System. All applications for any permit issued by the Bureau of Surface Mining are included in the system.

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Permits/Agencies Affected

The Bureau of Surface Mining issues permits for surface mining and enforces reclamation regulations. Delegation of authority by the federal government will soon add permit responsibility for enforcement of surface effects of underground mining. The bureau's computer tracking system follows all state mining permits.

Administrative Process

The tracking system of the Bureau of Surface Mining serves as an information mechanism for the bureau's separate divisions and as a monitoring device to ensure that permits are processed expeditiously. The computer system tracks each project as it moves through the three separate divisions responsible for planning, issuing permits, and enforcement.

Experience with the Reform

The computer tracking system has been very useful in monitoring the high volume of coal permits issued in Kentucky. In a sample month, the bureau issued 123 new permits and monitored 6,400 permits. The feasibility of implementing this system in the DNREP's Bureau of Environmental Protection--the regulatory bureau for water, air, and solid waste permits--is currently being evaluated.

PERMIT/APPLICATION COORDINATOR FOR NEW TECHNOLOGIES

The DNREP plans to coordinate a priority application procedure for applicants with multiple permits whose applications involve new technical processes. Applicants applying for permits associated with certain kinds of electric power generation, ethanol production, tar sand, oil shale, coal conversion, and other operations may fall into this category.

Permits/Agencies Affected

All environmental permits required by an eligible applicant would be expedited by this procedure. All bureaus issuing these permits, such as Surface Mining, Environmental Protection, and Natural Resources, would participate in an interdepartmental task force.

Administrative Process

The secretary of the DNREP will have authority for designating a project a priority application. In order to make this determination, the Secretary will consider the project's investment potential as well as its utilization of new technologies. The main vehicle for expediting the project will be the interdepartmental task force, whose members will work together to resolve application problems.

Experience with the Reform

If the priority application program proves successful, its use will be expanded to other projects involving major investments.

ADDITIONAL COMMENTS

The DNREP is currently planning other improvements designed to reduce the time involved in reviewing permits and to increase communication between applicants and the agency. These improvements include a permit coordinator, a revised permit information document, greater use of preapplication conferences, and concurrent permit review.

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LOUISIANA

Joint Hearing

OVERVIEW

The Louisiana Environmental Affairs Act (Act 449 of 1979, L.R.S. 30:1051 et seq.) reorganized the state regulatory structure to consolidate most environmental permitting activities and place them within the Department of Natural Resources' newly formed Office of Environmental Affairs (OEA). Act 449 also created the Environmental Control Commission (ECC), which is composed of the heads of seven state agencies and is vested with final authority for granting or denying environmental permits. The OEA serves as the staff for the ECC, and its five divisions review applications for air quality, water pollution, solid waste, hazardous waste, and nuclear development permits. Permitting authority for some categories has been delegated by the ECC to the head of the OEA.

JOINT HEARING

The ECC holds a single hearing for any project that requires multiple environmental permits. However, the applications and decisions for these permits are still handled on an individual basis.

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MAINE

Permit/Application Coordinator
Joint Application
Decision-Making Deadlines

OVERVIEW

Maine has developed comprehensive land-use programs under the jurisdiction of several state authorities. In order to minimize the duplication between the land-use regulations and administrative programs, Maine passed the Environmental Coordination Procedures Act. In addition, Maine has imposed decision-making deadlines on many of its permit procedures.

PERMIT/APPLICATION COORDINATOR AND JOINT APPLICATION FOR LAND-USE PERMITS

Maine has instituted a number of administrative procedures to coordinate the permit application process. The Environmental Coordination Procedures Act, known as the "One Stop Law" (which is in fact a misnomer; it is really a coordinated procedures bill), specifically prescribes that, depending upon the geographic location of the project, the Land Use Regulatory Commission (LURC) or the Department of Environmental Protection (DEP) act as lead agency to coordinate the application and review of six land-use statutes, and broadly prescribes coordinating activities (1977; amendment to 12 MSRA § 685-B). In addition, the LURC and the DEP signed a memorandum of agreement in 1978 defining the situations in which each would act as lead agency.

All applicants that are required to obtain a permit from both the DEP and the LURC may benefit from the one-stop law. In addition, for larger and more complex projects that require multiple permits, a project coordinator procedure may be used.

Permits/Agencies Affected

The Maine Board of Environmental Protection (BEP) has statewide jurisdiction and issues environmental permits for air, water, and waste as well as a number of land-use permits. The Department of Environmental Protection (DEP) administers these environmental permitting programs. The BEP land-use permits affected by the one-stop law are site location (for developments in excess of three acres or subdivisions of over 20 acres), minimum lot size (for lots smaller than 20,000 square feet), great ponds, and coastal wetlands. The DEP is the lead agency in the incorporated and organized areas of the state.

The Land Use Regulatory Commission has planning, zoning, and permitting authority over land-use development in Maine's unorganized territories (51 percent of the state) where no municipal form of government exists. Its staff is located in the Maine Department of Conservation. Applicants seeking development in the unorganized territories must obtain a land-use permit from the LURC and will probably require at least one of the land-use permits issued by the BEP. The LURC is the lead agency in the unorganized portion of the state.

In addition to these five permits, the one-stop law covers the Department of Inland Fisheries and Wildlife's (DIF&W's) stream alteration permit. The DEP and DIF&W have also signed a memorandum of agreement explicitly defining the procedures to follow under the one-stop law.

The lead agency system may affect all permits required by a project, including those issued by the BEP, the LURC, and the DIF&W. Although they are not statutorily included, air, water, and waste permits and licenses may be handled through the coordination procedures, particularly for larger projects.

Administrative Process

Under the one-stop law, applicants in the unorganized portion of the state are required to submit only one application form to the LURC for all six permits. A master application form has not been developed. Rather, the most detailed relevant form, such as the one for "site location" or "great ponds" permits, is used. LURC staff coordinate the distribution of information to the permitting bureaus and attempt to ensure consistent responses to the applicant as well as coordinate the timing of responses. However, individual permitting bureaus still issue the permits. To date there have not been any projects large enough to warrant joint hearings, although these are envisioned in the law.

The process is essentially the same in the organized portion of the state, with the DEP acting as lead agency.

As indicated, the LURC generally acts as lead agency for all projects in the unorganized territories, and the DEP acts as lead agency in the other areas. However, if a project in the unorganized territories poses more technical problems associated with air, water, or waste than associated with land use, the DEP, because of its expertise, may take the lead. When a proposed project is large or controversial, the lead agency may appoint a coordinator to act as contact point for both the applicant and the permitting bureaus. The coordinator may arrange preapplication meetings and consolidated hearings. On an informal basis there is always a great deal of communication between the different agencies.

Experience with the Reform

The one-stop law has proved particularly useful to great ponds and subdivision permit applicants. The LURC has not yet permitted any major projects under this authority, although several are under way.

DECISION-MAKING DEADLINES

Maine's Administrative Procedures Act specifies that the final decision on all permits should be made no later than 180 days after acceptance of the application. In addition, there are a number of permit-specific deadlines. For instance, the site location permit must be decided on within 30 days of receiving a complete application. If a public hearing is held, the final decision should be made within 30 days after the hearing.

ADDITIONAL COMMENTS

Two other efforts aimed at simplifying the permitting process are under way. The governor has charged the Land and Water Resources Council with devising a one-stop permitting process for hydroelectric facilities. This proposal is scheduled for review in the January 1982 legislative session.

In addition, the governor has established a citizen committee to study the operations of the DEP and assess how they can be improved. This report was scheduled to be released in November 1981.

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MARYLAND

Site Inventory/Banking
One-Stop Permitting
Decision-Making Deadlines
Permit/Application Coordinator
Joint Hearing

OVERVIEW

Maryland has one of the most comprehensive and sophisticated energy siting programs. The Power Plant Siting Act (PPSA), passed in 1971, includes a state site acquisition program, ongoing research programs, and a one-stop siting process for powerplants throughout the state. The Coastal Facilities Review Act (CFRA), passed in 1975, is modeled after the one-stop siting element of the PPSA and covers oil and gas facilities along Maryland's coast.

In addition, in 1975 Maryland passed consolidated permit procedure legislation in an effort to promote coordination between state and local agencies as well as among state agencies.

Maryland also has a Governor's Permit Simplification Task Force, which is charged with the responsibility of improving the permitting process of state and local governments. The task force has circulated, but not yet proposed, a draft permit simplification bill.

SITE INVENTORY/BANKING FOR POWERPLANTS

The Power Plant Siting Act (1971; Md. Nat. Res. Ann. Code §§ 3-301 et seq.) includes provisions for state acquisition of sites suitable for major powerplants. Under the PPSA, the state has set up an Environmental Trust Fund, which is financed by a surcharge on electricity production, to pay for site purchases as well as to conduct ongoing research programs for site evaluation and related environmental considerations. The state is required to develop an inventory of suitable sites. Utilities may then choose to purchase or lease sites from the inventory or to acquire sites independently.

Permits/Agencies Affected

The Maryland Department of Natural Resources' (DNR) Power Plant Siting Program (PPSP) is the lead agency for the site banking program and for conducting detailed technical studies of the environmental impact of existing and proposed powerplants. Other state agencies, such as State Planning, Economic and Community Development, Health and Mental Hygiene, and Agriculture are integrally involved in the process, but the PPSP is vested with ultimate authority to purchase a new site. State acquisition of a site or state approval of a utility-owned site may pre-empt local zoning.

Administrative Process

The PPSA requires the PPSP to create an inventory of at least one site for every major utility that has a peak demand of 1,000 megawatts (at present, this covers three utilities), up to a maximum of eight sites. Once purchased, the site is banked and can be sold to utilities at fair market value or under 99-year leases.

Experience with the Reform

Maryland has acquired only one site. The PPSP has identified a second site but has not been able to complete purchase negotiations. The PPSP is about halfway through the process of identifying the third site. No utilities have sought to acquire a state site.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR POWERPLANTS

The PPSA also contains provisions for one-stop permitting of powerplants and transmission lines. Prior to the construction of any of these facilities (with a minimum capacity of 69 kilovolts), a utility must receive a Certificate of Public Convenience and Necessity from the Public Service Commission

(PSC). This certificate replaces a number of other state and local permit requirements. A single public hearing process and decision deadlines are important elements of the PPSA.

Permits/Agencies Affected

The Certificate of Public Convenience and Necessity replaces most environmental state permits, such as those relating to dredge and fill, air emissions, water appropriations, and water use, as well as local permits and zoning. However, the delegated NPDES and solid waste permits are issued separately.

If the proposed facility or its appurtenances (e.g., water intake channels) involve the dredging or filling of state wetlands, approval by the State Board of Public Works is required. While the issues pertinent to a recommendation on proposed alterations to state wetlands may be considered in a single public hearing process and within the same decision deadlines, a formal authorization must be granted by the State Board of Public Works.

The PSC is the ultimate decision-making body for issuance of the permit. However, the PPSP has a formal lead advisory role. The departments of State Planning, Economic and Community Development, Health and Mental Hygiene (which ordinarily issues air, water, and waste pollution permits), Transportation, and Agriculture issue joint recommendations with the PPSP.

In general, there is little federal participation in the proceedings. However, when Maryland was considering a nuclear power site, the state worked closely with the Nuclear Regulatory Commission.

Administrative Process

The PSC receives and evaluates the annual plans of each public utility. These plans, which include ten-year forecasts of need for proposed sites, are sent to the PPSP. Within six months of receipt of the plans, the PPSP must issue a preliminary statement regarding the suitability of each site. If a site is not initially declared unsuitable, the PPSP will conduct a detailed environmental investigation that must be completed within two years. These studies provide the basis for the state departments' recommendations to the PSC on whether to grant, deny, or grant with conditions a certificate of public convenience and necessity for a powerplant at that site.

Applications for certification must be submitted two years prior to planned construction. Upon notification from the PSC that an application has been received, the PPSP must complete its environmental studies of the site. The PPSP then makes a preliminary recommendation to the PSC on whether the certificate should be granted or denied. This recommendation is presented along with relevant data at a public hearing. Within 15 days after the hearing, the PPSP must issue a final recommendation to the PSC, which must grant or deny certification within 90 days of the public hearing.

Experience with the Reform

Five applications for powerplant certification have been submitted, and three of these have been approved. A fourth application concerned a nuclear facility, but the utility has elected to defer the certification process. A fifth application is currently (as of October 1981) in process. To date, no utility has elected to construct on a state-banked site.

An official in the powerplant siting program noted that it has been impractical to abide by the deadlines in the PPSA and that there are proposals to amend them.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR COASTAL OIL AND GAS FACILITIES

The Coastal Facilities Review Act (1975; Md. Nat. Res. Ann. Code §§ 6-501 et seq.) is closely modeled after the PPSA's one-stop siting procedures. It differs substantively from the PPSA in that there is no stable source of funding such as the Environmental Trust Fund, no ongoing research program, and no state acquisition of sites.

The CFRA affects facilities related to crude oil and natural gas in areas of Maryland adjacent to the Atlantic Ocean and Chesapeake Bay. The CFRA procedures apply to offshore pipelines, production terminals and refineries, oil storage facilities, and assembly areas for oil and gas exploration, subject to certain size qualifications.

Permits/Agencies Affected

The CFRA certificate replaces all other state and local permits, except local zoning. This exclusion differentiates the CFRA from the PPSA. Again, the DNR acts as the lead agency, and the action taken by the DNR secretary on the application constitutes the department's position on all other permits or licenses. In the case of projects involving alteration to state wetlands, the recommendation on that aspect of the project is forwarded to the Board of Public Works for final approval.

Administrative Process

Procedurally, CFRA certification is very similar to PPSA certification. Public hearings and time limits are an integral part of the process.

Experience with the Reform

There have been no eligible project applicants since the CFRA's passage. Therefore, the legislation remains untested.

PERMIT/APPLICATION COORDINATOR, JOINT HEARING, AND DECISION-MAKING DEADLINES

The "Consolidated Permit Procedures" legislation passed in 1975 and modified in 1979 (Ann. Code Md. Art. 78A § 56-67) established the Office of Coordinator of Development and Construction Permits and provided for coordinated permitting procedures. The legislation includes formal procedures for master application forms, joint and consolidated hearings, and decision-making deadlines. However, the office believes that it is more effective when it works on an informal basis, acting as ombudsman and information source.

Any applicant may use the coordinator's informal services, and any applicant requiring more than one permit may use the formal procedures. Applicants are required to submit master application forms but are not required to use joint or consolidated hearings.

Permits/Agencies Affected

The Office of Coordinator is housed in the Board of Public Works, which consists of the governor, the treasurer, and the comptroller. The coordinator will provide information to the applicant on all construction and environmental permits issued by state and local agencies. Local agencies are invited to participate in joint hearings, but state agencies must participate in joint or consolidated hearings upon the coordinator's request.

Administrative Process

The consolidated permit procedures legislation specifies that the coordinator has authority to:

1. Require all applicants for any permit to complete a master application form. This document helps the applicant understand exactly what permits are needed and where he or she can obtain them.

2. Conduct consolidated hearings between state agencies. The coordinator has complete discretion to enforce a consolidated hearing on state agencies and the applicant.

3. Conduct joint hearings between state and local government agencies. Joint hearings will be held only upon the applicant's request and if the local entity consents.

4. Intervene in a project review and enforce a 60-day time limit for action by the agencies.

Experience with the Reform

The Office of Coordinator has rarely used its formal authority granted by state legislation but rather has worked more effectively on an informal basis. In the past seven years, the office has conducted consolidated hearings only five times and has yet found it necessary to intervene and enforce the time limit on administrative decisions. Joint hearings between state and local entities have been requested rarely. The Office of Coordinator received 4,000 master permit application forms in 1980.

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MASSACHUSETTS

Permit/Application Coordinator
Joint Application
Decision-Making Deadlines

OVERVIEW

The Massachusetts Energy Facility Siting Council (EFSC) expedites the review of permit applications for all hydroelectric facilities of less than 100 megawatts by requiring preapplication conferences and joint applications, and by imposing decision deadlines. The EFSC also functions as an appeal board for state and local permit decisions on these projects.

The EFSC further serves as a forum for appeals of state and local decisions on environmental permits for any energy project that meets the definition of "facility" set out in M.G.L.L. 164 § 69G. If an energy developer is dissatisfied with an agency decision for one of a number of specific reasons, including failure to make a timely decision, an EFSC review may be requested. The EFSC has the authority (with certain exceptions) to overturn agency denials or issue permits if an agency has failed to act. There have been no petitions for this review since the law was enacted in 1974.

The Department of Environmental Quality Engineering (DEQE) has instituted a number of additional reforms. It has relocated all DEQE offices to one location, published a permit directory, and conducted a study to identify possible areas for permit consolidation and procedural streamlining.

PERMIT/APPLICATION COORDINATOR, JOINT APPLICATION, AND DECISION-MAKING DEADLINES FOR HYDROELECTRIC PROJECTS

The Energy Facility Siting Council is composed of four cabinet members and six gubernatorial appointees. It serves as the lead state agency for hydropower development and is responsible for coordinating the permitting and licensing of hydropower generating facilities with capacities smaller than 100 megawatts. In this role the EFSC makes use of modified master applications, prehearing conferences, and decision-making deadlines. These procedures, adopted pursuant to Mass. Stat. Ch. 164 § 69H1/2, are mandatory for hydroelectric projects with capacities less than 100 megawatts.

In addition, the statute established the EFSC as an optional appeal board for the permit decisions or failures to make permit decisions by state and local agencies concerning eligible hydroelectric projects. The applicant may appeal decisions to the EFSC or directly to the state courts.

Permits/Agencies Affected

The EFSC requirements, including a master application, prehearing conference, and decision deadlines, apply to all state agency and local conservation commission permits and licenses applicable to hydroelectric developments, including wetlands, dredge and fill, dam, and waterways permits. Although federal agencies are not bound by the procedures, application information is forwarded to the Federal Energy Regulatory Commission and the Army Corps of Engineers.

Administrative Process

The process is initiated when the applicant files a preliminary notification form with the EFSC. This application is subsequently circulated to all interested local, state, and federal agencies and the utility in whose service territory the site is located. The state and local permitting agencies are prohibited from requiring the use of application forms other than the master application, though they may ask the developer to supply supplemental information and studies specific to the project. Within 30 days the EFSC must call a prelicensing conference at which the interested agencies inform the applicant what permits are required and what additional information is needed to complete the application. Following this conference and submission by the applicant of the required information, the EFSC specifies decision-making deadlines for the individual agencies not more than 90 days from the completion of the application. If an environmental impact report is required under the Massachusetts Environmental Policy Act, the decision review periods start when the report is completed.

The statute also allows any party aggrieved by the action or inaction of any state or local permitting or licensing agency in cases involving hydroelectric projects smaller than 100 megawatts to appeal to the EFSC within ten days of the administrative decision. The EFSC jointly considers all pending appeals and must issue a decision, based upon cost, need for energy, and environmental impact, within 90 days. This EFSC decision is equivalent to the final agency action on the appealed permit or license. Failure to appeal to the EFSC does not sacrifice any rights to judicial appeal.

Experience with the Reform

The statute was enacted in November 1979 and the regulations were adopted in April 1981. Two projects are currently in the agency decision-making stage.

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MICHIGAN

Permit/Application Coordinator
Joint Application
Joint Hearing
Computer Tracking

OVERVIEW

Within the Michigan Department of Natural Resources (MDNR), two major efforts have been undertaken to streamline the environmental permitting process for both energy and industrial projects. The Environmental Services Division has designated a permit coordinator for air quality, water quality, and solid and hazardous waste permits. The Division of Land Resource Programs has developed a consolidated application and review process for all federal and state land/water interface permits. This latter reform will be tested in the fiscal year beginning October 1981.

PERMIT/APPLICATION COORDINATOR

The Environmental Services Division has designated an individual in its Office of Environmental Planning to coordinate environmental protection permits on a project-by-project basis. Although any applicant may use this service, it generally applies only to projects that are large in scope or that require multiple permits.

Permits/Agencies Affected

The Environmental Services Division coordinates state air and water quality and solid and hazardous waste permits. These permits are issued either by other divisions in the Michigan Department of Natural Resources or by special commissions such as the Water Resources Commission and the Air Pollution Commission.

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Administrative Process

The permit coordinator provides the following services to applicants:

- Organizes preapplication conferences
- Provides unified department responses advising applicants of permit requirements, potential problem areas, etc.
- Tracks permits of concern
- Distributes permit application packages
- Refers potential permit applicants to appropriate department divisions or to other agencies

The permit coordinator attempts to enter early into an applicant's planning process in order to clarify permit requirements and to serve as a focal point for the applicant from start to finish.

Experience with the Reform

The MDNR has performed some type of coordination service for many years. The current structure was developed in the past year.

The MDNR estimates that 5 percent of the projects reviewed by the agency benefit from this coordination service.

JOINT APPLICATION AND JOINT HEARING FOR DREDGE AND FILL PERMITS

The Division of Land Resource Programs is currently implementing a consolidated application and review program for all state and federal permits that relate to the "land/water interface" (such as flood and erosion risk areas, submerged lands development, etc.). This program will apply to all industrial and energy projects, regardless of size, that require any of these permits. Joint hearings involving state and federal, as well as multiple state authorities, are routine.

Permits/Agencies Affected

The land/water interface process currently consolidates permitting authorities of nine state statutes and four federal authorities which involve the land/water interface. The relevant state statutes are the Great Lakes Submerged Lands Act, the Inland Lakes and Stream Act, the Soil Erosion and Sedimentation Control Act, the Aquatic Nuisance Control Act, the Great Lakes Shorelands Act, the Wetlands Act, the Floodplain Control Act, the Dam Construction Act, and the Inland Lakes Level Act. The relevant federal statutes are Sections 401 and 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Coastal Zone Management Act. The Division of Land Resource Programs will administer the program. Other participating agencies include the State Division of Water Management, the U.S. Army Corps of Engineers district office, the regional office of the U.S. Environmental Protection Agency, and the Fish and Wildlife Service.

Administrative Process

As a result of this program, applicants submit a single application form, receive joint reviews, undergo one hearing for all relevant permits, and receive a single department response. A group of division staff members functions as a consolidated permit processing unit and is the focal point for the applicant throughout the permitting process. This group is responsible for such tasks as receiving applications, routing them, tracking their progress, notifying the public, compiling all comments, conducting hearings, and ensuring prompt review and action.

There will be one joint field investigation, one joint hearing, and concurrent reviews on the project application. The final decision to issue or deny a permit will generally be made by the Division of Land Resource Programs, although other divisions, such as Water Management, will occasionally be responsible if the project falls more closely under their authority.

Projects will be categorized as major or minor, and major projects will require public notification of hearings. The division will expedite the review of minor applications--approximately 75 percent of all projects--and hopes to complete them within two weeks.

Experience with the Reform

The consolidated application process was just implemented in October 1981. However, the Division of Land Resource Programs estimates that upwards of 75 percent of all applicants will incur considerable cost and time savings with the consolidated process, in addition to avoiding considerable federal duplication.

COMPUTER TRACKING

The Division of Land Resource Programs employs a computer tracking and environmental warning system to assist in assuring both that reviews are conducted within special time frames and that key environmental concerns are given proper consideration by all viewers. The system is further capable of serving as a list which on a biweekly basis notifies interested members of the public of pending applications. The system also facilitates the coordination of both internal and external reviews at all levels. (This system is being evaluated for its potential to consolidate almost all permitting requests within the department.)

ADDITIONAL COMMENTS

In the past, coordination between the Environmental Services and Land Resource Programs divisions has been informal. Generally one division took the lead for shepherding a project through all environmental permit requirements. The Division of Land Resource Programs is now exploring mechanisms for coordinating the two divisions' permitting activities.

Michigan is currently undergoing a comprehensive regulatory review process and is pursuing several initiatives to streamline permit programs. For example, there are several pieces of proposed legislation introduced in the Michigan legislature that would streamline the siting and permitting of powerplant facilities. In addition, there is a proposal to establish a one-stop information and referral service in the Michigan Department of Commerce for all permits.

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MINNESOTA

Permit/Application Coordinator
Site Inventory/Banking
Decision-Making Deadlines

OVERVIEW

Minnesota is currently developing several procedural mechanisms aimed at reducing duplication and inconsistency in its permitting programs. The Business Licensing Group is preparing procedures for incorporating the Environmental Quality Board's (EQB's) permit coordination unit into its activities. The EQB is developing rules to govern the identification of appropriate areas for a powerplant site inventory. Finally, the EQB is in the process of revising the state EIS rules to integrate decision-making deadlines and greater coordination with the permit information collection process.

The Minnesota Pollution Control Agency, which is the state agency responsible for regulating air quality, water quality, and waste disposal, is currently drawing up a set of permitting rules designed to make state permit procedures more uniform. These rules are modeled after the EPA's consolidated regulations and will include a general set of procedural rules as well as specific technical rules for all state programs and federally delegated programs. Minnesota currently has authority for the NPDES program and is seeking interim authorization for RCRA. The agency hopes to complete the rules by March 1982.

PERMIT/APPLICATION COORDINATOR

The Environmental Coordinating Procedures Act (1976; Minn. Stat. §§ 116 c.22 - 116 c.34) provided for a state procedure for applying for environmental permits called the

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"Master Application Process" and the establishment of an environmental management information center. The Permit Coordination Unit of the Minnesota Environmental Quality Board administers this program.

In 1981 the legislature passed the Business Licensing Bill (Ch. 342, Minn. Laws), which established a Bureau of Business Licensing with a mandate to consolidate, simplify, and expedite the business license procedures of state agencies. The EQB's unit will merge into the Bureau of Business Licensing in late 1981 to form a coordination unit for both environmental and nonenvironmental permits.

Any applicant may use the bureau's information services or may elect to use its more comprehensive services.

Permits/Agencies Affected

Every permit necessary for the initial licensing and continual operation of a business is affected by this program. Examples of these are environmental permits for air quality, water quality, and solid waste disposal, as well as nonenvironmental permits, such as a license to open a restaurant or a hotel.

The Business Licensing Group is located in the recently reorganized Department of Energy, Planning and Development (EPD). The EQB is a policy-coordinating board composed of agency heads and citizen appointees. Its staff is also located in the EPD.

Administrative Process

The Business Licensing Bill gives the bureau authority for the following functions:

- The bureau shall provide to applicants comprehensive information on required licenses. Applicants may request preapplication conferences. The director of the bureau may request that each affected agency provide to the applicant written reviews of license requirements within a time frame specified by the director.

- The bureau shall develop a master application procedure. This process parallels the current one administered by the EQB. Applicants may complete a master application form describing their proposed project. The bureau circulates the form to all relevant agencies, which then have 20 days to notify the bureau that a permit is needed. If an agency does not respond, it loses its authority to require a license. The bureau provides the applicant with application forms and related information. The applicant may submit application forms to each agency separately or channel them through the bureau.

- The bureau shall facilitate consolidation of hearings among state agencies. This will be done at the consent of participating agencies.

- The bureau shall encourage and facilitate the participation of federal and local government agencies in licensing coordination. The bureau will advise applicants of federal and local license requirements and will consult with local government officials with respect to coordination.

- The bureau shall make recommendations for eliminating, consolidating, simplifying, expediting, or otherwise improving licensing procedures.

Experience with the Reform

In the past, the EQB's master application process has been used rarely, but its information services have been utilized extensively. Staff members offer several possible explanations for this low usage of the master application process:

- Those applicants who could benefit most from the process (i.e., large projects needing many permits) can afford their own lawyers and consultants to work as advocates.

- The Permit Coordination Unit is perceived as just another layer of bureaucracy.

- Permit writing offices are not supportive and remain protective of individual jurisdictions.

The head of the Business Licensing Group intends to aggressively encourage project applicants to use the master application process.

SITE INVENTORY

The Minnesota Power Plant Siting Act as amended through 1980 (Minn. Stat. §§ 116 c.51 et seq.) gives the Environmental Quality Board authority to develop an inventory of "large electric generating plant study areas." The EQB is currently developing rules identifying the criteria it will use to select this inventory. Powerplant sponsors are not required to build on sites in the inventory, but if they choose otherwise they must provide sufficient rationale. In addition to developing an inventory, the EQB has authority to issue a certificate of site compatibility for proposed powerplants in excess of 50 megawatts.

Permits/Agencies Affected

The EQB's siting authority pre-empts only local and regional zoning authority; all other permits required by the facility must be applied for separately, including the Certificate of Need issued by the Department of Energy, Planning and Development.

Administrative Process

The purpose of the study area inventory is to provide guidance to the utility for identifying reasonable sites for new construction and to ensure that all possible sites are considered.

The criteria that the EQB will use to select these areas will include air quality, transportation, and water quality. Study areas will not be specific because of the burden of such a task in a large state, but will cover broad geographic areas.

The EQB does not purchase sites; it merely designates areas as suitable in anticipation of a powerplant proposal.

Experience with the Reform

Because the EQB has only recently promulgated the rules to establish selection criteria, it has not yet put any areas into the inventory. The absence of powerplant construction proposals has obviated the need for an inventory to date.

DECISION-MAKING DEADLINES AND COORDINATION WITH EIS

The EQB is currently rewriting rules for determining when and how a state Environmental Impact Statement must be prepared. As part of these revisions, the EQB is developing rules for coordinating permit information collection activities with the preparation of the EIS. All required environmental permits, including local and federal ones, will be identified early in the EIS process so that this information can be easily coordinated.

In addition, the EQB intends to invoke administrative decision-making deadlines on permit-issuing agencies. All agencies will be required to issue or deny permits no more than 60 days after the EIS is completed.

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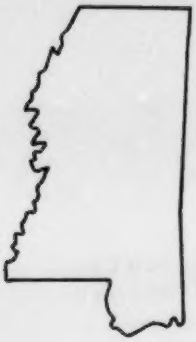

MISSISSIPPI

Permit/Application Coordinator

OVERVIEW

In 1981, the state of Mississippi passed a comprehensive permitting bill which required each state agency to develop a plan for one-stop permitting, to coordinate permitting with other state and federal agencies, and to design master application forms. The governor's Executive Order No. 371 strengthened the bill by designating the Department of Economic Development the chief implementing agency for the legislation, and by establishing an advisory council with reporting duties to the governor. Since significant portions of the bill do not go into effect until the spring of 1982, this summary necessarily concentrates on reforms outlined in the Act. Prior to passage of the permitting bill, the state Bureau of Pollution Control made informal efforts to coordinate air and water permits.

PERMIT/APPLICATION COORDINATOR

The one-stop permitting bill, H.B. 629, declares that the state's policy is:

> "each agency of the state shall cooperate to the greatest extent possible with other agencies of the state and federal government which have separate, but similar, related or interrelated jurisdiction, so that the processing and issuing of permits, licenses and other such instruments will be streamlined to reduce costly delays, duplication of effort, and unnecesary governmental red tape and so that state policy will be carried out in an effective, efficient, predictable, and consistent manner."

Permits/Agencies Affected

The bill is broad in scope, applying to every state agency that issues permits of any kind. The state Bureau of Pollution Control, part of the Department of Natural Resources, issues all environmental permits, including those for NPDES, PSD, and RCRA (Phase I).

Executive Order No. 57, which complements H.B. 629, lodges central authority for permit reform in the state's Department of Economic Development. This department maintains information for other agencies and the public on permit requirements. The executive order authorizes use of a toll-free phone line for public information. The director of the Department of Economic Development chairs the Mississippi Business Permitting Advisory Council, which includes representatives from state and federal agencies and citizens from business, labor, and environmental groups. This council is to assist in implementing the permit reform bill, and to report on its progress to the governor.

Administrative Process

Under the bill each agency must develop a plan for achieving one-stop permitting, which takes effect in April 1982. The legislation defines one-stop permitting as enabling an applicant to "complete all necessary applications at one time and location, or to supply enough information to the agency at one time and location so that each agency can process [it] . . . [and] the applicant . . . [can] obtain authorization."

In addition, agencies with "similar, related, or interrelated jurisdiction or authority" must develop a single application form which all these agencies can review "expeditiously." Agencies must also attempt to use consolidated hearings and joint permitting procedures for state and federal projects. To enable state agencies to do this, the bill authorizes them to enter into agreements with other state and federal agencies.

Experience with the Reform

Because the legislation is so recent, most of the work to date has been planning. The advisory council will issue an interim report detailing progress on the reforms in November 1981.

ADDITIONAL COMMENTS

Under the bill, the Mississippi Research and Development Center was directed to design a "single or master application form for all required permits, licenses, and other instruments from agencies of the state." An official from the Department of Economic Development reported that this effort proved infeasible; one cannot design a form that is straightforward and compact yet comprehensive enough for review by all state agencies. Therefore, the current plan is to devise a master permit information form that will enable applicants to find which permits are necessary for their particular project.

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MISSOURI

Decision-Making Deadlines

OVERVIEW

All of Missouri's environmental permits are issued within the Missouri Department of Natural Resources (DNR). The DNR is bound to comply with decision-making deadlines in reviewing all air permits. In addition, the director of the Division of Environmental Quality acts as an informal coordinator for major projects requiring multiple DNR permits. The director instructs the various permitting branches to synchronize their review procedures in order to shorten the turnaround time.

DECISION-MAKING DEADLINES FOR AIR PERMITS

Missouri has adopted decision-making deadlines for the review of all air pollution permits. Air pollution permits are issued by the Division of Environmental Quality within the Missouri Department of Natural Resources and include the delegated PSD program. For minor permits the agency decision must be made within 90 days of the filing of a complete application. Permits for major emission sources must be granted or denied within 184 days of the filing of a complete application. These deadlines have been mandated by regulation, not by legislation.

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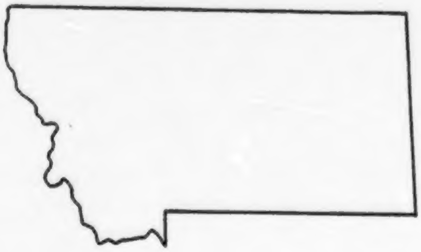

MONTANA

Joint Application
Joint Hearing
Decision-Making Deadlines

OVERVIEW

Montana has established a coordinated review process for major energy facilities. The process employs a master application and joint hearings, and streamlines the number of state and local decision-making bodies to two. The Department of Natural Resources serves as coordinator of the process, and the Board of Natural Resources serves as the final decision maker. The Department of Health and Environmental Sciences retains its authority to make permit decisions, although its review process is coordinated into the larger process.

JOINT APPLICATION, JOINT HEARING, AND DECISION-MAKING DEADLINES FOR MAJOR ENERGY FACILITIES

The Montana Major Facility Siting Act (Mont. Rev. Codes Ann. 75-20-101 et seq.) reduces the number of applications, hearings, and decisions needed to obtain the requisite state and local permits for major energy projects. However, the process cannot properly be categorized as one-stop because there are three sets of hearings and two distinct decision points. An application must be approved first by the Department of Health and Environmental Sciences and then by the Board of Natural Resources before the certification is granted.

A Certificate of Environmental Compatibility and Public Need is required for construction of the following: powerplants of 50 megawatts or greater; coal conversion plants with a capacity of 25 million cubic feet of gas per day or greater; facilities capable of producing 25,000 barrels of liquid hydrocarbons per day or more; any facility capable of utilizing or converting 500,000 tons of coal or more per year; any additions to the preceding categories over $10 million; any uranium enrichment facility; all transmission lines greater than 230 kilovolts and transmission lines greater than 69 kilovolts and over 10 miles long; and synthetic gas, water, or liquid hydrocarbon product pipelines. The certificate is also required for use of geothermal resources of more than 25 million Btu per hour, and underground in situ coal gasification plants.

Permits/Agencies Affected

The Board of Natural Resources (BNR) is the body responsible for issuing the certificate. The Department of Natural Resources (DNR) serves as the staff for the BNR and is responsible for conducting the review process and preparing recommendations for the BNR. The Department of Health and Environmental Sciences (DHES) conducts independent reviews and renders decisions on its permits, though the act specifies review schedules which coordinate the work of the DHES and the DNR. Also, documentation prepared by the DHES is included in reports prepared by the DNR. The DHES has responsibility for air, water, solid waste, and hazardous waste permits. The statute requires the DNR to request input from seven specific state agencies (the Environmental Quality Council and the departments of Public Service Regulation; State Lands; Commerce; Highways; Revenue; and Fish, Wildlife, and Parks) and the appropriate local agencies in preparing recommendations for the board. The state and local agencies may participate as interveners in the BNR hearing, but the board retains final decision authority and can override local ordinances. Federal agencies receive copies of the application but do not participate actively in the review, although joint federal/state reviews that also satisfy federal requirements may be conducted.

Administrative Process

The review process is initiated by the filing of a master application with the DNR and DHES, which have 90 days to determine whether it is complete. Following the completion of the application, the DHES conducts its reviews, and the DNR prepares its report concurrently. This report is also prepared in compliance with the requirements of the Montana Environmental Policy Act. The DHES holds a single set of hearings for all of the permit programs it administers. Permit decisions are made by individual offices within the DHES and must be made within one year of the acceptance of the application. These decisions may be appealed before the Board of Health. Such appeals must be decided within 18 months of the date of the original application. In the meantime, the DNR prepares the draft environmental assessment and, if necessary, the environmental impact statement, holds public hearings to receive comments, and issues the final report, including recommendations for the BNR on the application. The statute requires that these recommendations be given to the BNR within 22 months of the acceptance of a complete application.

After receipt of the DNR recommendations, the BNR presides over contested case hearings in which state and local agencies as well as other interested parties may participate. The BNR must rule on the application within 11 months of receipt of DNR recommendations.

Experience with the Reform

Since the process was established in 1975, Units 3 and 4 of the Colstrip coal-fired powerplant and about 12 transmission lines have completed the process and received a Certificate of Environmental Compatibility and Public Need. The Kootenai Falls hydroelectric project is now in the review process.

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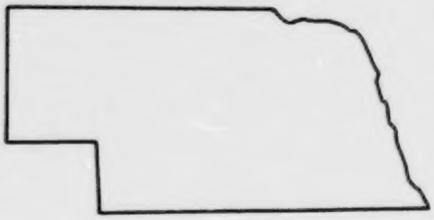

NEBRASKA

OVERVIEW

Nebraska neither has a formal consolidated permit program, nor does it formally coordinate the permitting process. Nonetheless, the state has streamlined the permitting process through a variety of informal mechanisms.

The Department of Environmental Control (DEC) is responsible for issuing all water quality, air quality, and solid waste disposal permits. The DEC currently administers the federal NPDES program and is in the process of taking over the federal RCRA program. Moreover, the Water Pollution Control and Solid Waste Pollution Control divisions of the DEC were recently combined into the Water and Waste Management Division. This division keeps a consolidated file for all water and waste permit information and is exploring the possibility of combining the two applications into one form.

The DEC is partially constrained by deadlines for issuing these permits. Both air and water quality permits must be approved or denied within 30 days after public notice has been filed provided there is no significant amount of public comment. When public comments are substantial, however, there are no decision-making deadlines for issuing permits.

The Department of Economic Development will arrange pre-application meetings between the permitting agencies and industrial project sponsors who are new to the state. DEC staff members may act informally as liaison between an applicant and the permitting agencies by setting up meetings and following up the applicant's request for information.

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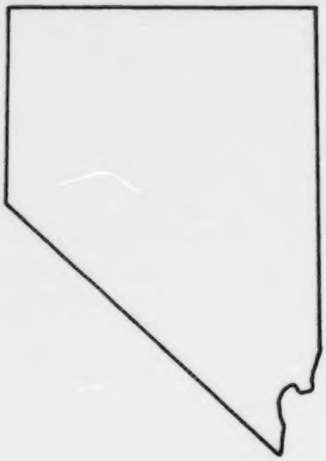

NEVADA

OVERVIEW

The Nevada State Clearing House conducts prehearing conferences for major projects at the request of the applicant. These meetings include the applicant and representatives of the state permitting agencies in a discussion of the project characteristics and permit requirements prior to the filing of an application. The state has not made any other procedural reforms in the environmental permit area.

Most environmental permits, including those for air and water pollution (NPDES), ground water use, and hazardous and solid waste disposal, are issued by the Nevada Division of Environmental Protection in the Department of Conservation and Natural Resources. The Clearing House is within the State Planning Coordinator's office.

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NEW HAMPSHIRE

Joint Application
Joint Hearing
Decision-Making Deadlines

OVERVIEW

New Hampshire has consolidated regulatory proceedings for major energy facilities. The Energy Facility Evaluation Committee has authority over the required consolidated permit for nonelectrical energy facilities. The Bulk Power Supply Facility Site Evaluation Committee has final authority over the environmental and siting aspects of powerplant and transmission line permitting. Both committees utilize master applications, joint hearings, decision deadlines, and a comprehensive state permit.

JOINT APPLICATION, JOINT HEARING, AND DECISION-MAKING DEADLINES FOR ENERGY FACILITIES OTHER THAN BULK POWER FACILITIES

The Energy Facility Evaluation Committee (EFEC) is authorized to conduct joint reviews and issue final state site permits for nonelectrical energy facilities (N.H. Rev. Stat. Ann. § 162-H). The EFEC is made up of 13 members representing 11 different state permitting agencies. It includes representatives from all agencies issuing permits for energy development and representatives from other agencies that have an interest in energy development but do not have permitting authority.

The coordinated review process incorporates use of a master application, joint notice procedures, joint hearings, and decision-making deadlines. Within this coordinated review process, the applicant must obtain approvals from state agencies prior to and as a condition for the issuance of the required comprehensive construction and operation permit by the

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EFEC. An applicant that wishes to construct a facility other than electrical generating stations and power lines, "to extract, manufacture, or refine sources of energy," must use the consolidated review process.

Permits/Agencies Affected

The coordinated review process coordinates the reviews of all state permitting agencies with jurisdiction over an energy facility that falls within the statutory definition. The state permits involved cover air and water pollution, solid waste, and wetlands protection. The law requires that an applicant secure a permit from the EFEC. A condition for granting of the EFEC certificate is the approval (possibly with conditions) of the state regulatory agencies. The local authorities may offer testimony in the joint hearings, but their approval is independent of the EFEC's decision. Federal agencies are not formally involved in the process, although efforts are made to coordinate state and federal proceedings.

Administrative Process

The coordinated review process begins with the submittal to the EFEC of a master application by the applicant. This application is filed in lieu of all other state agency forms. The application is forwarded to all agencies with jurisdiction in the case. The agencies and the committee then evaluate the application and, if necessary, ask the applicant to supply any omitted material. Once the EFEC determines that the application is complete, it must begin public hearings within 60 days. The first session is strictly a public information meeting, and the subsequent joint hearings are in lieu of all other hearings that would be held by state agencies. Agencies that otherwise would conduct hearings are required to participate, and those that would not ordinarily hold hearings may not take part.

Agencies must make permit decisions and submit them to the EFEC within seven months after the application is determined complete. Within 14 months after a completed application is filed, the EFEC must act on the comprehensive permit. The EFEC can issue a comprehensive permit only if three conditions are satisfied. First, no state agency can have denied the applicant a required authorization. Second, the EFEC must include terms and conditions imposed by other state agencies in its comprehensive permit. Third, the committee must make findings of its own on issues outside the scope of other agencies' reviews, including the impact on the development of the region, the environment, and the public health, and the ability of the applicant to construct and operate the facility in compliance with all permit conditions.

Experience with the Reform

Since the law establishing the EFEC and the coordinated review process was adopted in 1974 one gasohol plant in Portsmouth has gone through the entire joint review procedure. The committee has considered a number of other energy-related proposals but subsequently decided that the proposed facilities did not fall within the statutory definition of an energy facility.

JOINT APPLICATION AND JOINT HEARING FOR POWERPLANTS AND MAJOR TRANSMISSION LINES

The Bulk Power Supply Facility Site Evaluation Committee (SEC) and the corresponding coordinated review process were established in 1971 (N.H. Rev. Stat. Ann. § 162-F). The same state agencies that make up the EFEC are members of the SEC. The SEC site review process is quite similar to that used for energy facilities other than powerplants and transmission lines and includes a master application, joint hearings, and a comprehensive site approval decision by the SEC. This approval is necessary before the New Hampshire Public Utilities Commission (PUC) can issue a Certificate of Site and Facility.

Applicants proposing powerplants over 50 megawatts or transmission lines over 100 kilovolts and over 10 miles in length must receive SEC approval prior to construction.

Permits/Agencies Affected

The SEC site review process is part of a larger New Hampshire PUC procedure for certifying electric power facilities. All state environmental permitting agencies are required to participate in the SEC coordinated review. The SEC will not approve an application unless all state environmental requirements have been met and must give "due consideration" to the views of municipal legislative bodies and planning commissions. Local governmental agencies are not required to participate in the joint review. There is no formal federal involvement.

Administrative Process

Applications for a required PUC Certificate of Site and Facility must be filed with the PUC at least two years prior to construction. The PUC and the SEC must hold a joint hearing within 60 days of the application. A single application and a joint hearing are employed in place of the independent state agency procedures. The SEC, like the EFEC, is bound by the decisions, terms, and conditions of the state agencies in its findings. The SEC decision is conclusive on all issues of siting, land use, and air and water quality. These SEC findings are submitted to the PUC, which must grant or deny the certificate within sixteen months of application. In making its decision, the PUC considers the SEC result and its own conclusions on the issues of future demand and system stability and reliability.

Experience with the Reform

The Seabrook project is the only major facility to have completed the full site review process since the joint review's establishment in 1971.

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NEW JERSEY

Decision-Making Deadlines
Permit/Application Coordinator
Joint Application
Over-the-Counter Processing
Computer Tracking

OVERVIEW

New Jersey's most significant permitting reforms include review deadlines for certain permits established by a state "90-Day Review Law" passed by the legislature in 1975, and permit coordination under Executive Order No. 57 issued by the governor in 1977. In addition, the Department of Environmental Protection (DEP) has adopted a number of innovative administrative policies such as the use of a master permit application form, a permit directory, and over-the-counter processing of minor permits. In 1980 New Jersey's DEP participated in a task force on permit consolidation with the Region II EPA and New York's Department of Environmental Conservation which recommended ways to consolidate permits and to share computer systems.

DECISION-MAKING DEADLINES

The intent of the 90-Day Review Law (P.L. 1975 c.232) and Executive Order No. 57, which complements the statute, is to ensure that the DEP processes permit applications expeditiously. Any applicant requiring one or more of the five permits that the law covers is entitled to receive a decision on his or her permits within 90 days of the completed application.

Permits/Agencies Affected

The law applies to five categories of state permits issued for construction projects: Waterfront Development permits, Riparian Wetlands permits, permits under the Coastal

Area Facility Review Act (CAFRA), Stream Encroachment permits, and Sanitary Sewer Facilities permits. The 90-Day Law does not apply to federally issued permits.

Executive Order No. 57, which complements the 90-day Law, extends the decision-making deadline by requiring that all DEP construction permit applications deemed complete be acted on within the 90-day period. However, a process was established within the framework of the executive order to exempt certain permits from the 90-day provision. The DEP requested and received a number of exemptions: solid waste registrations, 201 sewer grant discharge permits, and permits associated with projects requiring a federal EIS.

Administrative Process

For all these state permits except those for CAFRA, the DEP must render a decision within 90 days after the application is complete. For CAFRA permits the decision is due within 60 days of the required public hearing. Time extensions are available, however, since there is an exemption procedure for "good cause."

Experience with the Reform

The New Jersey DEP processes in excess of 10,000 new construction permits a year. Of these, staff estimate that about 3,000 fall under the 90-Day Review Law. DEP representatives believe that the law and related reforms have significantly reduced time delays and costs in the permitting process.

Air permits form a large category not covered by the 90-Day Review Law. DEP staff suggest that drafters of the law omitted air permits because they thought that the technical aspects might require additional time. In practice, however, DEP officials say that air permits are consistently issued within 90 days.

PERMIT/APPLICATION COORDINATOR

A reform related to the 90-Day Review Law, Executive Order No. 57 (1977), established a Cabinet Committee and a Citizen Committee on Permit Coordination. The governor requested the two committees to oversee the implementation of the 90-Day Law and to provide information to the public about the permit process. The DEP also provides the assistance of permit coordination officers within the department as a means of simplifying the permit process.

Permits/Agencies Affected

The coordination and information functions performed by the DEP permit coordinators and the Cabinet and Citizen Committees apply not only to the five categories of permits under the 90-Day Review Law (see discussion above), but to all permits administered by the DEP.

Administrative Process

Under the order, state departments must report regularly to the Cabinet Committee what permit applications (if any) consistently miss the deadline, which ones require extensions, and the reasons for such extensions. After reviewing this and other data, the committee is to report or recommend reforms to the governor.

For projects over $500,000 the applicant may request that the Cabinet Committee coordinate permit review. The committee may appoint a permit expediter from the Office of Business Advocacy, Department of Labor and Industry, who will set up preapplication meetings, coordinate contacts, advise the applicant on requisite state, regional, and federal permits, and suggest ways to consolidate hearings and forms wherever possible.

In consultation with the Cabinet and Citizen Committees on Permit Coordination, the state has published a Detailed Directory of State Programs for Regulating Construction, which lists all permits required by the state for construction projects, the department that issues the permit, the purpose of the permit, its statutory authority, the type of activity it regulates, and the titles and numbers of staff who can assist applicants. The directory also lists regional permits (such as those for coastal or critical areas) and federal permits. The DEP is required by law to publicly distribute at least monthly a bulletin which lists pending applications for construction permits and the status of review of those applications. In addition to indicating application status, the DEP Bulletin is used as the computer tracking document to inform the public of permit decisions, public hearing dates, press releases, etc. The DEP publishes its own Easy Access guide to the department, which lists by subject area staff names, titles, and numbers. It names the Office of Cultural and Environmental Services in the DEP a central information source on environmental regulations. Thus if an applicant is unsure about whom to call even after reading the directory and guide, he or she could call the Office of Cultural and Environmental Services for assistance.

Experience with the Reform

Although it is difficult to evaluate specifically the impact of these reforms, DEP staff state that better information and improved coordination have made the permit application process faster and more efficient, especially for larger projects.

JOINT APPLICATION

The DEP has developed master forms for obtaining information from applicants. The applicant or the state-appointed permit expediter uses a "Master Permit Information Form" to clarify features of the proposal. The form is circulated to the appropriate permitting divisions, and their staffs decide what permits are required. Next, the applicant completes a Standard Application Form CP-1, which is used for construction and discharge permits. The Standard Application Form has taken the place of more than 20 separate application forms and is included in a booklet which is a one-source document of information on the DEP's permitting process. It includes general background information on DEP permitting, contact phone numbers and addresses, legal citations, and specific requirements for each permit application. The CP-1 form is designed to be xeroxed and given to different permit programs so that processing proceeds concurrently. DEP staff use handwritten response forms for certain permits as opposed to typed letters to advise applicants of the completeness of their submissions, a practice that has saved an average of one week in response time.

OVER-THE-COUNTER PROCESSING

For minor stream encroachment, sewer extension, and riparian permits that meet specific criteria, applicants can receive same-day or 24-hour service. Over-the-counter permit applications are handled by appointment only, and application requirements are essentially the same for all projects.

ADDITIONAL COMMENTS

DEP and federal agency staff meet regularly to discuss projects under joint authority. The major purposes of this effort are to identify key staff persons, review procedural matters, and discuss potential conflicts.

Federal/State Task Force on Permit Consolidation and Computer Tracking

In 1980 the New Jersey DEP, the New York Department of Environmental Protection, and the Region II EPA established a task force to recommend ways to improve state and federal permit processes and to share environmental information. The task force met more than a dozen times during 1981 and issued two interim reports. The final report, which was due in late 1981, will make specific recommendations for permit consolidation and joint hearings as well as suggest ways to share and expand the computer systems that the Region II EPA, New York, and New Jersey are already using.

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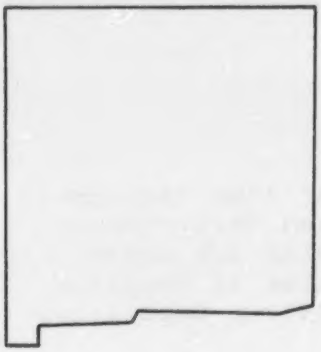

NEW MEXICO

Decision-Making Deadlines
Permit/Application Coordinator

OVERVIEW

Although New Mexico has not implemented a major permit coordination program, the state has instituted organizational and procedural mechanisms which serve to facilitate the permitting processes. The Health and Environment Department, for example, has strict decision-making deadlines for its air and water permits, and the governor of New Mexico has initiated an effort to coordinate the federal and state permitting process.

Coordination among the state permitting agencies occurs on an informal basis. Applicants are encouraged by each permitting office to participate in preapplication conferences, and a handbook describing permit requirements for natural resources development was recently published.

In addition, several staff members noted that the structure of the Water Pollution Control Commission and the Coal Surface Strip Mining Commission promotes interdepartmental coordination. These commissions, which are responsible for setting policy and establishing regulations in their respective areas, are composed of representatives from a cross-section of state agencies.

DECISION-MAKING DEADLINES

New Mexico has established regulatory deadlines for several of its environmental permits. The ground water discharge permit must be approved or rejected within 60 days from the time the application is complete. The state air quality permit carries a deadline of 30 days from the time the complete application is received. The Health and Environment Department does not have a deadline for issuing the state radioactive material permit, but the state aims to complete the process in half the time taken by the Nuclear Regulatory Commission.

PERMIT/APPLICATION COORDINATOR FOR FEDERAL AND STATE PERMITS

The governor of New Mexico recently established by executive order a task force to explore alternatives for coordinating the "permitting review processes of the state and the various federal agencies to provide timely, accurate permit reviews without altering or impeding the authority vested by the statutes and regulations in the various state and federal agencies." The task force is composed of the secretaries of the departments of Health and Environment, Energy and Minerals, and Natural Resources, as well as the chairman of the Public Service Commission and an assistant to the governor.

The governor has submitted a proposal to the federal Department of Energy requesting funds for a staff assistant to the task force. The staff assistant would work closely with state permitting agencies to help them implement reforms, develop federal/state permit review agreements, coordinate the state's review process, oversee state permit directory activities, and act as liaison between the state permitting agencies and industry.

To date, the state has not been able to obtain the funding, and therefore the task force's activities are suspended.

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NEW YORK

One-Stop Permitting
Decision-Making Deadlines
Permit/Application Coordinator
Joint Application
General Permit
Computer Tracking

OVERVIEW

New York has instituted a one-stop permitting process which the Department of Environmental Conservation (DEC) administers and which applies to major projects other than steam powerplants. The New York State Board on Electric Generation and the Environment (siting board) oversees a similar permit process for steam powerplants. Other reforms that New York has adopted include use of application coordinators, specific deadlines for agency decisions, joint applications, consolidation of forms, general permits, and computer tracking of permits. For energy projects, New York has instituted master energy plans and a public participation fund.

Additionally, throughout 1980, representatives from the New York DEC, the New Jersey Department of Environmental Protection, and the Region II EPA formed a permit consolidation task force which met regularly to research and recommend ways to streamline permitting and to share environmental data and computer systems.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR PROJECTS OTHER THAN POWERPLANTS

All construction and development projects (other than major steam electric generating facilities) that require more than one environmental permit fall under New York's Uniform Procedures Act (ECL, § 70-0107), which provides for one-stop review of applications for regulatory permits. A similar review process applies to major steam electric generating

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facilities under Article VIII of the Public Service Law. The DEC processes all permits concurrently and makes a single decision following a public hearing on the proposal.

Permits/Agencies Affected

The DEC coordinates the 22 environmental permits that the state issues, except those for major electric generating facilities, which fall under the jurisdiction of the New York State Board on Electric Generation and the Environment. The one-stop process applies to all categories of state permits and federal permits that are administered by the DEC.

New York issues its own NPDES permits (Clean Water Act), underground injection control permits (Safe Drinking Water Act), and dredge and fill permits (Clean Water Act), and has partial authority for permits under the Clean Air Act and RCRA (Phase I).

Administrative Process

Preliminary screening by the DEC of the applicant's proposal identifies which environmental permits are necessary. The New York Uniform Procedures Act sets deadlines for the agency's review and decision on the construction or development project and requires a hearing to be held if issues raised by the public cannot be otherwise resolved. Where the Act requires a hearing, the DEC must hold it between 60 and 90 days after the completed application is filed and must issue a decision on major projects within 60 days after the close of the hearing. For minor projects the DEC has 45 days to rule on the application after the hearing is completed.

Where no hearing is necessary, applicants may request a less formal decision conference. After the conference, the DEC must issue a decision within five days, although an applicant who is dissatisfied may request a full hearing.

Experience with the Reform

By handling all the applicable state and federal permits in one administrative process and one hearing (where required), DEC staff expedite the application process considerably. According to staff, the DEC processes about 25,000 permits or reapplications each year, of which about 10,000 or fewer are for new facilities. However, many of these permits are for minor sources such as wells. Only a small number (10 percent) of projects require multiple permits and planning under the one-stop siting process, but these projects represent a large commitment of staff time. Because of their size and complexity, these projects also tend to have significant environmental impacts.

PERMIT/APPLICATION COORDINATOR

New York has taken two steps beyond the Uniform Procedures Act to further streamline its permitting process. All major projects are assigned a specific project coordinator at the outset to serve as a contact and to try to expedite the review process. In addition, major projects are passed through a "clearinghouse" review which brings environment-related agencies outside the DEC into the one-stop process.

Permits/Agencies Affected

These coordination efforts apply to all environmental permits issued in New York, including the 22 permits administered by the DEC and, when required, approvals issued by the Adirondack Park Agency, Department of Health, and Office of Parks and Recreation (historic preservation).

Administrative Process

A project coordinator is assigned to a project after the applicant or potential applicant contacts the DEC. Each program with jurisdiction assigns an individual to review the project in order to identify permit requirements and identify potential problems. The project coordinator relays these comments and other information between the agencies, the applicant, and the interested public. The coordinator also attempts to resolve issues between public objectors and the applicant before a decision is made about whether or not a public hearing is required. A hearing is held only if there is public objection to the project.

The "clearinghouse" review simply means that all environmental reviews, not only those issued by the DEC, are handled with one application, hearing, and decision.

Experience with the Reform

The DEC began using project coordinators in the middle of 1981. DEC staff state that these modifications have been well received by both applicants and the general public.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR POWERPLANTS

Under legislation first passed in 1972 and re-enacted with procedural changes in 1978 (N.Y. Pub. Service L. §§ 140 et seq.), the New York State Board on Electric Generation and the Environment (siting board) has complete and overriding authority for electric generating facilities of 50,000 kilowatts or more. The siting board consists of the Chairman of the Public Service Commission (PSC); the commissioners of the state departments of Environmental Conservation, Commerce, and Energy; and a local representative who is appointed by the governor and is from the area affected by the proposed plant. The siting board issues a Certificate of Environmental Compatibility and Public Need. This certificate differs from certificates issued by many other states in that it is the primary vehicle for evaluating environmental impacts of the project.

Permits/Agencies Affected

The one-stop siting process for powerplants covers all the permits that the DEC issues for construction and development projects, but in the case of powerplants it is the siting board, not the DEC, which coordinates the one-stop procedure and makes the final decision on the acceptability of the project.

Administrative Process

Project sponsors for proposed electric facilities of 50,000 kilowatts or more apply to the siting board for the Certificate of Environmental Compatibility and Public Need. Deadlines in Section 143 of the Public Service Law require that within 60 days of receipt of the application, the siting board determine whether the information is complete enough to docket. Within a "reasonable time" after docketing, the board must hold the prehearing conference and public hearing. The final decision is due from the board no less than 24 months after the application has been determined to be complete.

When reviewing applications for steam electric generating stations, the siting board is bound by the latest State Energy Master Plan (SEMP) with respect to its determination of need for a facility. The SEMP is developed by a state energy board, which is required to consider economic growth; technological change; conservation; the health, safety, and welfare of the public; and the impact of alternative energy sources and conservation on the economy and on the quality of the environment. The State Energy Law provides for public participation in the hearings on the SEMP, including reimbursement of intervener's costs for expert witnesses and consultant fees, but not for attorney's fees. The powerplant siting law also makes provision for reimbursement of intervener costs.

As part of the powerplant siting process, the siting board has also experimented with holding joint hearings and using joint forms for state and federal environmental impact statements with the Nuclear Regulatory Commission. A member of the Department of Public Service described these joint efforts as productive, even though the applications in the two cases in which joint hearings were conducted were withdrawn for other reasons. Similarly, the siting board has developed joint state/federal applications for Section 401 and 404 permits under the Clean Water Act.

Experience with the Reform

Since the Power Plant Siting Law's enactment in 1972, eight applications have been considered. The siting boards have certified four of these, and four were either withdrawn or denied. No applications have been considered under the act as amended in 1978.

JOINT APPLICATION

Although under federal legislation the U.S. Army Corps of Engineers (COE) has ultimate authority to issue dredge and fill permits under the Clean Water Act, the DEC and the COE have developed a joint permit application form and coordinating procedures for those permits. Thus an applicant may submit a form to either agency alone, and that agency will coordinate review with the other agency and channel the application into the one-stop siting process. The DEC has established similar procedures with joint forms and review with other state agencies whose jurisdictions overlap, such as the departments of Health and Transportation and the Adirondack Park Agency. Thus, as part of this process, the DEC has simplified and consolidated a number of different application forms.

GENERAL PERMITS

With general permits, the DEC can review and approve the environmental impacts of a class of activities as a whole instead of conducting permit reviews and issuing approvals for each project within a particular category. General permits are issued for projects which are either caused by extraordinary natural occurrences such as flooding or ice damage, or which have been demonstrated to generically pose little or no threat to natural resources. The latter category includes certain dredging or filling projects, and maintenance or replacement, in kind, of docks, bulkheads, etc.

Permits/Agencies Affected

The Department of Environmental Conservation is the only agency using general permits.

Administrative Process

The DEC publishes a notice of intent to issue a general permit, reviews comments, and issues the general permit by notice in newspapers. In some cases, applicants continue to file a separate application and are told that work proposed falls under a general permit. The project sponsor must notify the DEC of the proposed project. No further action is necessary.

Experience with the Reform

To date, New York has issued 54 general permits. General permits have eliminated 400 to 2,000 permits each year, depending on the amount of flooding or ice damage occurring. Use of this mechanism allows a smaller staff to devote more time to review of significant projects.

ADDITIONAL COMMENTS

Federal/State Task Force on Permit Consolidation and Computer Tracking

Suggestions for sharing of computer data and increased cooperation in issuing permits were the main products of a task force formed in 1980 by the New York DEC, the New Jersey Department of Environmental Protection, and the Region II EPA. Representatives from these agencies met more than a dozen times throughout the year to study ways to improve state and federal permit processes. For example, the Region II EPA is developing a "SCOPE" system to track NPDES, RCRA, UIC (underground injection), and other permits, while the DEC's system tracks NPDES and ground water permit issuance and compliance. Region II and the DEC have arranged to share some of this data. The task force has produced two interim reports on permit consolidation and information exchange. One participant observed that not as much progress was possible on state/federal permit consolidation because the legal deadlines and procedures for issuing federal permits were inflexible and did not allow coordination with state procedures.

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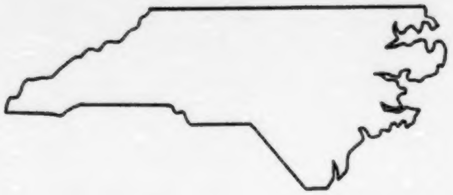

NORTH CAROLINA

Permit/Application Coordinator
Computer Tracking
Joint Application

OVERVIEW

The Office of Regulatory Relations (ORR) was created in January 1980 by the North Carolina Department of Natural Resources and Community Development (DNR-CD) in order to coordinate the department's regulatory activities. In addition, the ORR also serves to provide permit applicants with a central place to obtain information.

The DNR-CD Office of Coastal Management, in conjunction with the Wilmington, North Carolina, district office of the U.S. Army Corps of Engineers, has developed a consolidated coastal permit application process. Furthermore, the district Corps office has issued a general Section 404 permit.

PERMIT/APPLICATION COORDINATOR

In addition to providing information services to applicants, and coordinating agency reviews, the ORR is committed to assessing and recommending changes in regulatory programs and processes. Any potential permit applicant may contact the ORR and request assistance.

Permits/Agencies Affected

The DNR-CD issues most of North Carolina's environmental permits, including the delegated NPDES and PSD permits and the state's major coastal area management permit. The Department of Human Resources is responsible for issuing hazardous and solid waste permits and administering Phase I of RCRA. The Department of Administration issues the state easement to fill

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in coastal areas. The ORR provides information on these state permitting programs and works to coordinate state authorities as well as, to a more limited extent, federal and local regulatory authorities.

Administrative Process

The ORR is divided into the following four sections: Permit Information and Assistance, Environmental Assessment, Economic Assessment, and Administrative Procedures Act Coordination. The Permit Information and Assistance section is most directly involved in permit coordination activities and provides the following types of services on an informal basis:

- A central location and contact for information regarding departmental permits and regulatory functions. The office recently published an Environmental Permit Directory.
- Assistance to applicants in scheduling and coordinating the various regulatory processes for complex or multi-permit projects.
- A forum for the discussion, clarification, and resolution of issues and concerns between an applicant and regulatory agencies prior to and during the permitting process.
- Preparation of periodic status and monitoring reports regarding departmental permitting and regulatory activities.
- Establishment of more efficient and effective coordination among permit, A-95, and environmental review processes.
- Evaluation and recommendation of improvements in regulatory relations and procedures among related state and federal permitting agencies.
- Review of proposed regulations in regard to their relationship and compatibility with department-wide permitting and regulatory responsibilities and their impact on applicants.

Experience with the Reform

The Office of Regulatory Relations became fully functional on June 1, 1980, and responded in an initial three-month period to over 100 requests for permit information and assistance from individuals, industry, local governments, and state agencies. The office organizes approximately two to three preliminary permit coordination meetings for clients each month. Within the last year the office has provided the follow-through for resolving 20 permit review conflicts between applicants and issuing agencies.

COMPUTER TRACKING

In addition to providing the services described above, the ORR is currently assisting in the development of a computer-based permit application tracking system. Water and air quality permits are in the system now, and other department permits will be added in the future. The ORR has also developed a computer-based A-95 and EIS tracking system which notifies applicants of required permits. Both of these systems will be part of an overall state automated data processing (ADP) system. When fully operational, the system will be coordinated through the Office of Regulatory Relations.

PERMIT/APPLICATION COORDINATOR AND JOINT APPLICATION FOR DREDGE AND FILL PERMITS

The DNR-CD Office of Coastal Management and the Wilmington District Corps of Engineers have developed coordinating procedures for applicants that require permits from both agencies. All applicants benefit from joint application forms and joint bimonthly coordinating meetings.

Certain projects may qualify under the Corps' general 404 permit (issued January 27, 1981) and thus not require separate federal permits. The Corps' general permit differs from state-issued general permits in that eligibility for the permit is not self-certified by the applicant and the applicant must still obtain the requisite state permits.

The Corps has broad discretion to determine eligibility under the general permit. Eligible projects usually include maintenance of existing projects as well as new projects such as boat channels and basins, bulkheading and filling, marinas, canals, and cable and pipeline crossings. Projects that are not eligible include those which have significant environmental impacts, involve unresolved state and federal agency conflicts, adversely affect habitats for endangered species or sites in the National Register of Historic Places, or would adversely affect wild and scenic rivers.

Permits/Agencies Affected

Applicants submit only one application for one or more of the following permits and certificates: The Army Corps of Engineers' permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act; the Office of Coastal Management's state dredge and fill permit and coastal area management (CAMA) permit; the Department of Administration's easement to fill; and the Division of Environmental Management's Section 401 water quality certification. The following nine state agencies may review the application and participate in the bimonthly meetings: the Department of Transportation; the Department of Human Resources; Archives; the Department of Administration; and within the DNR-CD, the Division of Community Assistance, the Division of Land Quality, the Division of Environmental Management, the Office of Coastal Management, and the Division of Wildlife Resources. At a federal level, the regional offices of the Corps, the EPA, the Fish and Wildlife Service, and National Marine Services review the application and participate in meetings.

Administrative Process

Applicants submit copies of the joint application to both the Corps' district office and the state field office of Coastal Management.

If the Corps determines that an application qualifies for the general permit, only the state field office conducts an on-site investigation and writes up a report. If the general permit does not apply, the Corps and the state conduct either joint or separate visits and write up reports. The application and report(s) are then circulated to the nine state offices and four federal field offices named above for review.

Applicants receive separate approval for each permit. Therefore, from one application, an applicant may receive up to four separate permits and one certification.

If the general permit applies, projects that receive state approval for CAMA or state dredge and fill automatically receive federal approval for Sections 404 and 10 permits. The Corps reviews state reports and may submit recommendations to the state; however, it does not undertake an independent investigation. In addition to receiving notification of permit approval from the state, the applicant receives notice from the Corps that the project is covered under the general permit.

The district Corps office also conducts bimonthly coordination meetings to which representatives of the nine state agencies and four federal agencies are invited. These meetings are used to discuss policy, regulations, procedures, problem permits, and enforcement.

Experience with the Reform

Both the Corps and the state office of Coastal Management feel that these coordinating procedures have been very successful in shortening the permitting process. State officials estimate that since the general permit was issued, the average permitting time has been reduced by three weeks. This process has reduced the number of contacts an applicant must make and has made the permitting process less confusing. In addition, the general permit has greatly reduced the burden on district Corps staff.

ADDITIONAL COMMENTS

On a project-specific basis, the DNR-CD has experimented with an innovative program for coordinating permit activities and involving the public in the decision-making process. In response to a proposal to build an oil refinery, the DNR-CD set up several committees to expedite the permitting process. A citizens' advisory committee was created to represent the public in the decision-making process and to act as liaison to the interested public. A Technical Steering Committee was established to serve as a state contact for permit coordination, to act as a technical resource, and to coordinate with the project applicant. Finally, a state government interagency task force was set up to ensure consideration of the interests of other state departments.

In addition, the permitting agencies and the applicant agreed to lay out a decision schedule for issuance of the nine required permits following completion of the EIS. The applicant withdrew its application due to the world oil glut; therefore the process was never completed. However, the ORR (which was created during the middle of this process) intends to use this coordinated process for other industrial projects wishing to locate in the state.

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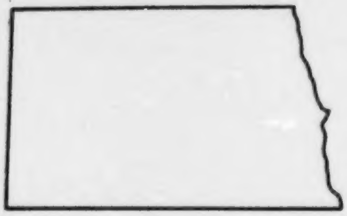

NORTH DAKOTA

OVERVIEW

In North Dakota all state environmental permits (except those for pesticides and mining) are issued by the Department of Health. In addition, North Dakota has pursued delegation of all possible federal permitting programs and now administers the NPDES, PSD, RCRA Phase I, and SDWA programs. As a result, permit applicants generally work with only one department at one level of government.

The Department of Health has attempted to streamline permitting through procedural mechanisms as well. The office administering PSD programs has deleted its requirement for a public hearing on every application. Effective January 1982, public hearings will be held only on request. Department of Health staff also encourage applicants to participate in pre-application conferences. These conferences are generally held for larger project applicants and conducted informally and sequentially with each permitting office.

North Dakota passed siting legislation in 1975 which gave the Public Service Commission (PSC) the authority to site major energy facilities. Although it does not prescribe a one-stop permitting process, the legislation does provide for consideration of environmental criteria and for consultation with other permitting offices during the siting process. The original legislation called for the designation of a site inventory by the PSC, but this concept was abandoned as impractical. However, the PSC does produce a computerized map inventory of "avoidance and exclusion areas" for energy facility sites.

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OHIO

Permit/Application Coordinator
Joint Application

OVERVIEW

In 1974 Ohio instituted a one-stop siting and coordination process for powerplants and transmission lines. The Ohio Power Siting Board has jurisdiction over the siting of powerplants and coordinates extensively with other permitting agencies.

The Ohio Environmental Protection Agency (OEPA), which issues NPDES and PSD permits as well as state air, water, and waste permits, has also streamlined permit procedures in a number of informal ways. The Water and Land Pollution Control offices of the OEPA are decentralized into five regional field offices, and the Air Pollution Control Office has sixteen offices. Project sponsors submit their applications directly to the field offices. Frequently the field office's recommendation will expedite the permit application through the central office.

In addition, if a new project requires both air and water permits, it may receive combined approval for both permits in a single document. Finally, the Office of Air Pollution Control uses a computer to track the status of air monitoring permits.

PERMIT/APPLICATION COORDINATOR AND JOINT APPLICATION FOR POWERPLANTS

The Ohio Power Siting Board was established by legislation in 1972 (Ohio Rev. Code Ann. Ch. 4906) and assumed jurisdiction over the siting of powerplants and transmission lines in 1974. A utility that plans new construction submits only one application for all permits to the siting board. However, each agency issues its own permit to the utility and conducts separate administrative proceedings. The one permit that is issued by the board is the Certificate of Environmental Compatibility and Public Need. Electric power generating plants of 50 megawatts or more, gas transmission lines capable of operating at 125 pounds per square inch or more, electric transmission lines capable of transmitting 125 kilovolts or more, and associated facilities must obtain the certificate in addition to OEPA permits before commencing construction. Any generating plant using solid waste as fuel is exempted from the certificate requirement.

Permits/Agencies Affected

The board consists of the directors of the departments of Health, Environmental Protection, Economic and Community Development, and Natural Resources, and the Public Utility Commission (PUC); a representative of the public who must be an engineer; and four nonvoting legislative members. The chair of the PUC is the chair of the board.

The board coordinates its reviews and decisions with nine other state agencies: the OEPA; the departments of Natural Resources, Energy, Economic and Community Development, Health, Transportation, and Agriculture; the PUC; and the Ohio Historical Society. Local government agencies and officials are integrally involved in the siting process, although their authority can be pre-empted by the board.

Administrative Process

An application for the certificate must be filed two years in advance for powerplant construction and one year in advance for the construction of transmission lines. Upon determining that the application is complete, board staff distribute copies of it to all relevant state agencies and local officials. A public hearing is scheduled 60 to 90 days after the application is deemed complete. Board staff review the application and prepare a report of recommended findings. This report must be filed 15 days prior to the hearing. The hearing, which includes an adjudicatory hearing and a public hearing, is held before an administrative law judge. The judge submits a recommendation to the board, which makes its final decision by majority vote "within a reasonable time."

Throughout the certification process the board works closely with affected local and state agencies. Affected local agencies are notified of preapplication conferences with the applicant. These agencies are also sent copies of the application, although they must file a notice of intervention to be made parties to the adjudicatory hearing. The board's staff includes five coordinators to the following state agencies: the departments of Natural Resources, Health, Energy, and Economic and Community Development; the OEPA; and the PUC. These agencies issue specific permits as required but receive the application from and coordinate closely with the siting board. The board is empowered to pre-empt local zoning.

The legislation encourages the board to hold joint proceedings with other state or federal agencies. To date, joint hearings have not been feasible.

Experience with the Reform

Since 1974 two nuclear generating units have been certified. An application for two other nuclear units was withdrawn subsequent to the hearings on it. Most of the commission's activities have involved electric transmission lines.

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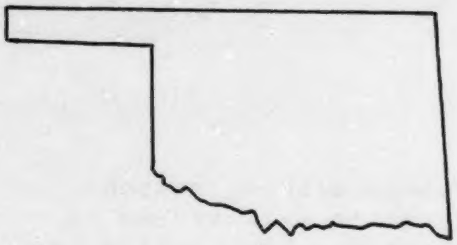

OKLAHOMA

Decision-Making Deadlines

OVERVIEW

Permit reform in Oklahoma has been limited to the informal coordination of permit applications among offices within the Oklahoma State Department of Health and to the establishment of regulatory deadlines for air quality permits. The majority of environmental permits are issued by the offices of the Oklahoma State Department of Health, specifically the Water Facilities Engineering Service (municipal treatment), Air Quality Service (air pollution), and Industrial and Solid Waste Service (solid and toxic wastes). These offices issue permits independently. For projects requiring multiple permits from the Department of Health, an informal meeting is held with the developer and the appropriate offices to determine which permits are required and to exchange information. Four other state agencies issue environmental permits: the State Department of Agriculture (for pesticide use or confined animal feeding), the Corporation Commission (for oil- and gas-related discharges), the Bureau of Mines (for mine-related permits), and the Water Resources Board (for stream water allocation, ground water use, and industrial water discharges). There is no formal coordination of permitting processes between state agencies, nor are there mechanisms for coordinating state and local regulators.

DECISION-MAKING DEADLINES

State law establishes regulatory deadlines for air quality permits. For all state air permits except PSD, the Department of Health must either grant or deny the permit within 90 days of the filing of a completed permit application. For PSD applications, the state complies with the EPA's

12-month review deadline. When Oklahoma assumes responsibility for PSD review in 1982, the state will review an application within 6 months of the time the application is completed.

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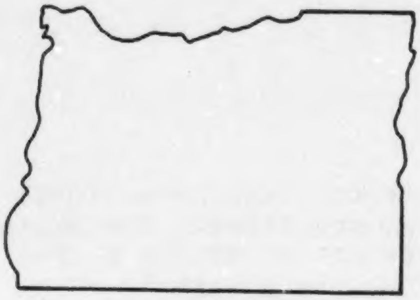

OREGON

Permit/Application Coordinator
Joint Hearing
One-Stop Permitting
Decision-Making Deadlines
General Permit

OVERVIEW

Oregon has taken three distinct steps to streamline the permitting process. The Permit Information and Coordination Center, established within the Intergovernmental Relations Division of the Executive Department, distributes information about state permit requirements, offers both formal and informal permit requirement definition services, and can serve as the convener of joint hearings.

The Energy Facility Siting Council reviews all major energy projects with a one-stop permit process. The process includes a master application, joint hearings, and a single decision maker.

The Oregon Department of Environmental Quality (DEQ) utilizes general permits for certain wastewater discharge permits. General permits allow the DEQ to develop permit standards for specific types of dischargers on a category-wide basis, leaving case-by-case review and most monitoring to the discharger.

PERMIT/APPLICATION COORDINATOR AND JOINT HEARING

The Permit Information and Coordination Center offers information about permits needed for particular projects, the procedural process and substantive requirements for obtaining those permits, and appropriate contacts in the regulatory agencies (Ore. Rev. Stat. § 447.805 et seq.). The center maintains a toll-free telephone number and publishes a permit handbook to provide this information service.

The center is also directed by law to organize optional master preapplication and joint hearing processes. The master preapplication process enables an applicant to obtain a list of state permit requirements in 30 days. This list is "guaranteed" to contain every permit applicable to the project. Permit requirements can also be identified informally (and without a guarantee) in a matter of one or two days. Joint hearings may be requested by the applicant, but since the process has never been used, the procedural details are not well defined.

In addition, the center can serve as a mediator between applicants and state agencies. At the request of an applicant, the center will contact a regulatory agency to try to eliminate any problems in the review process and, if necessary, set up a meeting between the agency and the applicant. In 1981, the legislature gave the permit center the authority to order state agencies to appear for mediation sessions called by the center.

These services are available to prospective applicants of any kind, and use of these services is entirely voluntary for the applicant. The center handles all state permits, not solely environmental ones.

Permits/Agencies Affected

The center operates within the Intergovernmental Relations Division of the Executive Department. The information mediation and permit requirement identification services relate to all state permitting agencies.

If the joint hearing process is invoked, all state agencies objecting to the filed application must present their views at the joint public hearing. The agencies retain their powers to grant or deny individual permits in the joint review process.

Administrative Process

In order to use the formal master preapplication process, an applicant must file a five-page application with the center. The center then distributes the application to all interested agencies, and the agencies determine which permits must be obtained. Within 30 days of receiving the application, the center must respond to the applicant with a definitive list of permits developed from agency responses. Agencies that fail to respond within this period may not impose any permit requirements.

The informal preapplication process, which most small businesses prefer, involves a meeting between the applicant and the permit center official. During this meeting the project is explained and permit requirements are roughly defined. This informal process takes about one day as opposed to the 30 days that the formal process requires, but the list of permit requirements is not legally binding.

The joint hearing process is initiated at the request of an applicant. If held, the joint hearing replaces all hearings otherwise required by law. The director of the Department of Administration presides over the hearing, but representatives of the relevant agencies conduct the portions of the hearing relating to their jurisdictions. Individual applications are used, and the agencies make permit decisions independently.

Experience with the Reform

The permit center was established in 1975. The center receives 400 to 600 calls for information per month. About 30 applicants per year use the formal master preapplication process, and a similar number participate in the informal permit identification meetings. Applicants with large or complex projects tend to use the formal option, while smaller projects typically prefer the informal and quick alternative. The center calls 30 to 50 meetings between applicants and agencies per year and makes some 200 phone call resolutions per year under its mediation function. No applicant has chosen the joint hearing option.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR MAJOR ENERGY FACILITIES

The Oregon Energy Facility Siting Council (EFSC) conducts a one-stop permitting process for all major energy facilities (Ore. Rev. Stat. § 469.010 et seq.). The process includes a master application, joint hearings, and a single comprehensive permit decision process. The state regulatory agencies may impose conditions on the EFSC certificate, but the council retains the final decision on issuance of the certificate. State agencies must issue the relevant permits after the certificate has been granted.

The one-stop process is mandatory for the following kinds of facilities: nuclear powerplants; electric generating stations over 25 megawatts; transmission lines over 239 kilovolts and 10 miles; solar collectors covering over 100 acres; and pipelines over 5 miles long and, for oil or geothermal energy, greater than 6 inches in diameter or, for natural or synthetic gas, greater than 16 miles in diameter.

Permits/Agencies Affected

All state and local permitting authorities participate in the joint hearings. The state agencies may impose conditions on the EFSC certificate, but once the certificate has been issued all state and local approvals must be granted. The state permits required for these projects include air, water (NPDES), solid and hazardous waste, and land-use permits.

Federal agencies have participated in hearings in several cases, although their permit decisions are distinct from those of the EFSC. The local governments participate in the joint hearings, but their permitting authority can be overridden by the EFSC.

Administrative Process

In most cases, a utility must issue a notice of intent to file an application one year prior to the actual filing. This notice is circulated to the regulatory agencies, which determine what permits are needed and what standards must be met. This one-year period is also used to issue public notice of the hearing and to allow interested parties to obtain intervener status. The single application is filed with the council. The joint evidentiary hearing is held before an administrative law judge appointed by the council. The judge's findings and the participants' comments on those findings serve as the basis for the council's decision. The council has broad fact-finding powers and may undertake studies through its staff, the Oregon Department of Energy.

If the EFSC approves the certificate, it is required to include conditions recommended by appropriate state regulatory agencies. The EFSC is bound by legislatively prescribed decision-making deadlines ranging from nine months to two years, depending on the nature of the project. Following an EFSC decision to grant a certificate, all state and local authorities must issue their permits with the same conditions recommended to the council. Although the statute establishes this decision-making hierarchy, the relationship between the EFSC and the state and local regulators has been cooperative thus far. The EFSC has not approved projects objected to by other regulators.

Experience with the Reform

The EFSC and the one-stop process were created by legislation in 1971. There have been five applications in the past ten years. A coal-fired powerplant, a cogenerator, and an underground gas storage facility were granted certificates. There has been no decision on a nuclear plant, and an application for a major transmission line was just received.

GENERAL PERMIT FOR WATER PERMITS

The Oregon Department of Environmental Quality is developing an array of general permits for a variety of project categories requiring water discharge permits. The DEQ general permit establishes standards of operation, such as certain suction dredges, for a type of discharger. The individual operator need only check compliance with those standards and notify the DEQ to gain operating authorization. Monitoring is also accomplished by self-policing. The DEQ intervenes only in response to complaints. General permits have been adopted by the DEQ for seven specific activities ranging from boiler blowdown to fish hatchery pond discharge. The general permits were established by changes in regulations and required no statutory amendments.

Permits/Agencies Affected

The DEQ issues NPDES permits for direct dischargers and state wastewater discharge permits for indirect dischargers. The general permits cover both types of water discharge permits. The EPA may comment on proposed general permits within the NPDES program.

Administrative Process

The DEQ initiates the general permit process by proposing standards for a particular discharging activity. These standards are open for public review through the customary public notice, public comment, and public hearing process. Following the agency decision, the NPDES portions are submitted to the EPA for comment.

After the general permit has been adopted, the individual discharger does not need to file an application or undergo agency review in order to receive state authorization. Instead, the operator simply notifies the DEQ that the facility complies with the standards, at which time the DEQ informs the operator of the monitoring requirements.

Experience with the Reform

The first four general permits were adopted in February 1981. Three more were established in August 1981. The general permits are expected to cut by 20 to 30 percent the number of permit application reviews handled by Oregon's wastewater discharge regulators.

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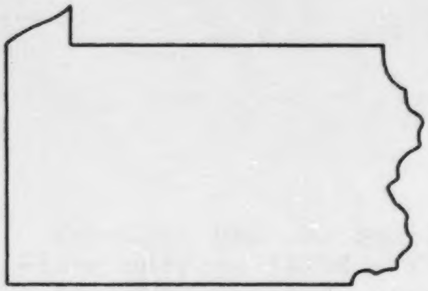

PENNSYLVANIA

Permit/Application Coordinator

OVERVIEW

Pennsylvania has initiated a permit coordination system through seven regional environmental protection offices. In addition, a Governor's Energy Council, which has principal authority for the development of energy policies and programs, was established in 1973. This council has no jurisdiction, however, over energy facility siting.

PERMIT/APPLICATION COORDINATOR

Pennsylvania's permit coordination system differs from those of many other states in its emphasis on regional directors. Applicants may elect to work either through the regional directors or directly with each permitting bureau in the regional offices. Regardless of what an applicant chooses, many of the administrative procedures described under permit coordination are routine to every application. All industrial or energy project applicants may use the regional directors as permit coordinators.

Permits/Agencies Affected

The Pennsylvania Department of Environmental Resources (DER) issues all environmental permits required for industrial or energy projects. Separate bureaus exist within the DER for such areas as water quality, air quality, resource management, and surface mine reclamation. In addition, there are seven regional DER offices. The directors of each regional office take the lead for coordinating all environmental permit processing for applicants in their own areas. Except for delegated NPDES and RCRA permits, neither federal nor local permits are included in this coordination.

Administrative Process

After the project applicant approaches the DER regional office, the regional director circulates a brief written project description throughout the department. Regional program staff then advise the project sponsor through the regional director of the necessary permits. A User Guide to DER Permits is available upon request. The applicant must complete separate applications for each permit, although these can be channeled through the regional director. The regional director will generally not issue any permits to the applicant until all permits have been processed.

The DER attempts to minimize the number of public hearings and will hold them only for controversial projects. There are no statutory deadlines for application review. Although the state has a target time frame of 60 days, the DER finds that federal regulations, especially public participation requirements, make this goal difficult to attain.

Experience with the Reform

The regional permit coordination system has existed for about two years. It is extensively used; however, specific numbers were not provided.

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RHODE ISLAND

Permit/Application Coordinator

OVERVIEW

Rhode Island has not initiated major procedural reforms in the area of environmental permitting, but the state does formally coordinate the permitting process through a permit coordinator and a permit guidebook.

In 1974, the Rhode Island General Assembly granted itself the power of final approval or denial over the location and construction of oil refineries and nuclear powerplants (General Laws, § 42-64-14.1). This authority overrides any state or local authority that might have declared a facility acceptable or unacceptable. Since neither type of facility has been proposed since 1974, the law remains untested.

In addition, in 1979 the governor established an Energy Facility Siting Board with a mandate to expedite existing permitting procedures for energy-facility siting. Although the board is administratively responsible for setting project decision schedules, it has no enforcement powers. No energy facilities have been proposed since the board's inception, and therefore its effectiveness is untested.

PERMIT/APPLICATION COORDINATOR

The permit coordinator is located in the Department of Environmental Management (DEM), Division of Planning and Development. The coordinator handles requests for environmental permit information and sets up preapplication conferences for applicants with energy and industrial projects. Any applicants requiring multiple permits may take advantage of this program.

Permits/Agencies Affected

The coordinator is involved in all state environmental permits issued by the DEM for energy and industrial projects as well as in the permit issued by the Rhode Island Coastal Resources Management Council (CRMC). In addition to approving any development within 200 feet of the shoreline, the CRMC must approve the construction of any large power generating facilities and certain types of industrial facilities (i.e., those that may affect the groundwater) throughout the state.

Administrative Process

The permit coordinator arranges a preapplication conference between the applicant and the agency's staff. At the conference, the permit requirements are reviewed and the applicant is given a permit guidebook describing both state and federal requirements. Subsequently, the project sponsor submits to the coordinator a strategy for completing its permit applications. The coordinator acts as liaison between the applicant and the permitting divisions and helps monitor the permit process. He has no authority either to make permit decisions or to set deadlines for them.

Experience with the Reform

The DEM has performed permit coordination services on an informal basis for many years. The permit coordinator position has been formalized for about one year. The permit coordinator reports that he sets up from two to four preapplication conferences per month.

ADDITIONAL COMMENTS

During its past four sessions, the legislature has considered, but failed to pass, an Energy Facilities Siting Bill. This bill proposes the establishment of a separate siting agency that would pre-empt all other authorities for the siting, licensing, and permitting of major energy facilities (not just oil refineries and nuclear powerplants).

In addition, the Region I EPA and the DEM are currently exploring ways to streamline the permitting of energy facilities. In the 1981 State-EPA agreement, the DEM agreed to review its state permits in terms of their applicability to 14 different types of energy facilities. The DEM will prepare a description of each permit it requires, review the range of permit processing times for the different types of facilities, and determine whether permit reviews are now handled concurrently or sequentially. The Region I EPA will produce a similar analysis for 26 federal permits. Upon completion of these analyses, regional and state staff will integrate the information and decide what streamlining should be implemented.

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SOUTH CAROLINA

OVERVIEW

There is no consolidation of environmental permits in South Carolina, with the exception of a joint application for Section 404 Clean Water Act permits developed by the State Coastal Council and the U.S. Army Corps of Engineers. Certain provisions of the State Coastal Act serve in some degree to streamline siting in the "critical areas" of the coastal zone, but these provisions do not reduce the number of required permits, nor do they amount to one-stop siting. Moreover, they are largely based on directives from the federal Coastal Zone Management Act.

In South Carolina the Department of Health and Environmental Control (DHEC) issues NPDES permits, construction permits for air emissions, wastewater system permits, and sanitary landfill permits. The DHEC also administers Phase I of RCRA. Additional permits are issued separately by other state agencies. For example, the Land Resources Conservation Commission issues permits for mining operations, and the Water Resource Commission issues permits for oil and gas facilities and for projects affecting ground water capacity.

In addition, the Utility Facility Siting and Environmental Protection Act governs the siting of electric generating plants. This act provides for joint investigations, hearings, and compacts between state and federal agencies. The language authorizing such joint efforts is broad. According to Public Service Commission staff, this provision has not been used because there have been no powerplants sited in the past several years in South Carolina.

DHEC personnel have investigated various permit reform measures. According to DHEC staff, these measures have all

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been rejected because they either were too costly or added another layer of bureaucracy.

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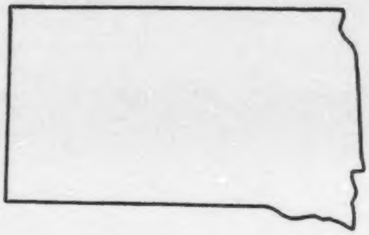

SOUTH DAKOTA

OVERVIEW

In July 1981, South Dakota consolidated all of its environmental permitting authorities into the Department of Water and Natural Resources (DWNR). In addition, most permits required for energy development and mining, including all air quality, solid waste, and mining permit programs, have been placed under the jurisdiction of the Board of Minerals and Environment within the DWNR. Water rights permits and permits for underground injection not related to oil and gas production are issued by the Water Management Board within the DWNR. If a project requires multiple permits from the Board of Minerals and Environment, any hearings that are necessary for these permits are held jointly before the board. However, the application and decision for each permit are still handled on an individual basis.

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TENNESSEE

Joint Review
Decision-Making Deadlines

OVERVIEW

Tennessee enacted legislation in April 1981 to coordinate and streamline the permitting process for major energy projects. This legislation is modeled after Colorado's joint review process.

In addition, for all environmental programs (air, water, solid waste, and hazardous waste), Tennessee conducts informal efforts to accelerate the processing of permit applications for both energy and industrial projects. Since most of the environmental permitting departments are housed in the Tennessee Department of Public Health, Environmental Management and Quality Assurance Administration, there is a great deal of internal coordination. For example, department staff help project sponsors effectively time their multiple applications. Also, the state Department of Economic and Community Development will arrange preapplication meetings between Tennessee staff and the applicant to review relevant permits.

JOINT REVIEW AND DECISION-MAKING DEADLINES FOR MAJOR ENERGY PROJECTS

The Major Energy Project Act (Senate Bill 918) prescribes procedures for joint review of permits for major energy projects. The key elements of this legislation are the establishment of a joint review team, procedural and review deadlines, and extensive public participation.

In order to be eligible for joint review under the Major Energy Project Act, an applicant must apply to the State Department of Economic and Community Development for designation

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as a priority energy project. The governor has final designation authority. Eligibility depends on whether the project has a capital cost of one hundred million dollars or more and whether it is likely to reduce the state's dependence on imported energy. Participation in the process is voluntary for the applicant.

Permits/Agencies Affected

All state, local, and federal permits that are needed in order to build a major energy project may be affected by this legislation. Examples of these include the federally delegated PSD, NPDES, and RCRA permits issued by the Department of Public Health; the Army Corps of Engineers' 404 water permits; the Tennessee Valley Authority's 26A water permits; and local zoning, noise, and construction permits.

State and local agencies are required to join the process. However, there is no override of a local agency's independent authority to ultimately approve or disapprove the project. Federal agencies whose approval is needed for the project are invited to join the process. If they do so, they must make every effort to cooperate with the process schedule.

Administrative Process

The legislation is intended to be flexible. An applicant may request joint review for part or all of the regulatory process.

Once the governor designates a proposed project a major energy project, he or she issues an executive order approving the project for joint review and providing for a joint review staff to assist in the process. A joint review team is formed with state agencies designated by the governor, local agencies contacted by the joint review staff, and federal agencies who choose to participate. The applicant participates as an ex officio member. The joint review team selects a member to be team leader. The team develops a project decision schedule which is monitored by the team leader. The team leader also acts to resolve delays and disputes.

The legislation requires a preapplication meeting between the applicant and the permitting agencies in order to clarify what each expects from the other. The applicant is also required to meet, prior to application, with interested members of the public to address their concerns.

The Major Energy Project Act specifies a number of deadlines to accelerate the review process. The following are examples of these deadlines:

- Approval or disapproval of a request for designation as a priority energy project must occur within one month of the initial request.
- The first meeting of the joint review team must take place no later than six weeks after this approval.
- Petitions for judicial review of any action under this legislation must be brought no later than 20 days following notice of such action.
- The complete project decision schedule cannot last more than two years.

Within this time frame, the joint review team has the authority to specify and modify a project decision schedule. If an agency fails to comply with the project decision schedule, the team leader may bring an enforcement action in chancery court. The joint review team may also request consolidation of all or several agencies' applications and proceedings. The joint review team has the authority to waive any state or local statute, regulation, or requirement if necessary to ensure timely and cost-effective completion of a facility without the endangerment of public health or safety.

After all agency approvals have been granted or deemed unnecessary, and if judicial review of these approvals is required and completed, the joint review team issues a final certificate of approval. This certificate indicates any conditions and the expiration date of all approvals granted to the project.

Experience with the Reform

Because the Major Energy Project Act only took effect on July 1, 1981, no applicants have filed for the joint review process. The Department of Economic and Community Development is currently exploring alternative mechanisms for implementing the Act.

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TEXAS

Computer Tracking

OVERVIEW

Although Texas does not have a formal consolidated permit program, it has instituted and continues to explore methods for streamlining the permitting processes.

The Texas Department of Water Resources has a Memorandum of Agreement with Region VI of the U.S. Environmental Protection Agency. This agreement closely links the procedures for issuing state water discharge permits and federal NPDES permits. In particular, once the state has held hearings and issued a state water discharge permit, the EPA will usually issue its permit without requiring a second public hearing. In the last six years, there have been only a half dozen cases where both agencies held public hearings.

The Department of Water Resources and the Division of Surface Mining and Reclamation have signed a Memorandum of Agreement which effectively precludes the need for a water discharge permit for applicants who obtain a surface coal or uranium mining permit. Applicants will be required to comply with a discharge standard established by the Department of Water Resources.

COMPUTER TRACKING OF UIC PERMITS

The Division for Underground Injection Control is currently developing a computer system for tracking permit applications and monitoring activities. This system will be operable in 1982 and will help track the 150 to 200 applications received each month.

During 1979 to 1980, the Texas Legislature's Committee on Environmental Affairs investigated the potential for consolidating state air quality and water discharge permits. This option was rejected as both unfeasible and insufficiently beneficial.

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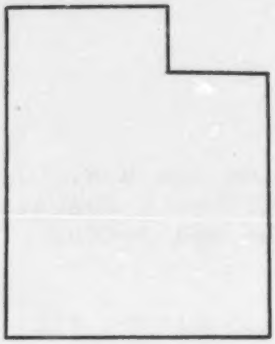

UTAH

Joint Review
Permit/Application Coordinator

OVERVIEW

Utah is in the early stages of implementing the Utah Coordinated Review Process, which is modeled in part after the Colorado Joint Review Process. According to the legislative plan, the Resource Development Coordinating Committee (RDCC), an existing body composed of representatives from 20 state agencies, will assume a significant role in the process. However, spokespeople from the governor's office cautioned that all these plans are tentative, and untried. In addition, the RDCC will act as an informal permit coordination function for applicants not using the joint review.

Before the passage of the coordinated review legislation, the governor from time to time formed special task forces made up of representatives from government, industry, public interest groups, and the general public to evaluate sites for energy projects. In addition, the Department of Environmental Health and the Department of Oil, Gas and Mining, the two agencies that issue most of the state's environmental permits, have extensively utilized preapplication conferences with project sponsors.

JOINT REVIEW FOR ENERGY AND MINERAL DEVELOPMENTS

Under the Resource Development Coordinating Committee Act passed in 1981, the Resource Development Coordinating Committee in the State Planning Office will oversee the coordinated review process. This committee consists of 20 representatives from state agencies and three ex officio representatives from the U.S. Department of the Interior's Bureau of Land Management and National Park Service and the U.S. Department of Agriculture. Until now the committee's function has been to conduct OMB A-95 and other economic and policy reviews.

Under the coordinated review process the committee will assist applicants in identifying the environmental permits necessary for their projects and in consolidating hearings and application forms whenever feasible. In order to receive approval for coordinated review, the project must (1) be a major energy or mineral resources development, (2) be in the early planning phase, and (3) have sufficient environmental impact to justify the commitment of government staff and funds. The coordinated review process will not change the substantive permit requirements for each agency. Instead it will facilitate early information exchange and establish an orderly schedule for the issuance of permits. Finally, the coordinated review process will be voluntary: both project sponsors and government personnel can choose whether or not to participate on the review team.

Permits/Agencies Affected

The joint review process can encompass preparation of federal, state, and local environmental and land-use permits as well as tribal permits. It can also incorporate state and federal environmental impact statement preparation.

Administrative Process

Procedures for designating a project for coordinated review have not yet been developed.

After initial designation of a coordinated review project, the governor will assemble a team that will generally include representatives of the state Natural Resources and Energy Department and the Department of Health, Division of Environmental Health. The governor, with assistance from the Resource Development Coordinating Committee, will consult with state, federal, and local agencies to select a review team composed of the agencies with the greatest regulatory responsibilities. The team will typically include representatives from local resident and citizen groups.

The review team will develop a statement of specific responsibilities for the applicant and agencies, along with a decision schedule. The team will also schedule public meetings and hearings consistent with statutory requirements.

Experience with the Reform

Because the legislation is so new, the first project to be subject to coordinated review has only recently been designated. It is the TOSCO Sand Wash Oil Shale project in Uintah County, Utah. The company volunteered to be the first applicant to go through the process. The team for the Sand Wash project includes one local representative, two state agency representatives who are also the chairman and co-chairman of the Resource Development Coordinating Committee, a federal official from the Bureau of Land Management, and one Indian tribe representative.

PERMIT/APPLICATION COORDINATOR

In addition to its role in the coordinated review process, the RDCC may act as an informal coordinator for all types of projects. Applicants will be encouraged to appear before the RDCC in a preapplication meeting. At these meetings, the RDCC will help applicants learn about permit requirements and identify individual contacts in each agency. This function is still in the development stages.

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VERMONT

Permit/Application Coordinator

OVERVIEW

Vermont issues a land-use permit for commercial or industrial projects (an "Act 250" permit) and an environmental impact and planning certificate for electrical generation or transmission projects (a Certificate of Public Good). Although these two permits do not replace the need for other permits, they do promote coordination and consistency in the permitting process.

In addition, Vermont conducts informal efforts to expedite the permitting process for industrial and energy project applicants. The Agency for Environmental Conservation (AEC) issues most of the state's environmental permits and maintains informal internal communications on projects that require more than one permit. Moreover, AEC staff encourage industrial and energy applicants to participate in preapplication meetings and to request written project reviews which summarize relevant permit requirements.

PERMIT/APPLICATION COORDINATOR

Vermont's Land Use and Development Act (1970; 10 VSA, Ch. 151) created a mechanism whereby certain types of developments must obtain a land-use or "Act 250" permit prior to commencing construction. Electric generation or transmission facilities are exempt from Act 250 review, but must receive a Certificate of Public Good instead.

Permits/Agencies Affected

Both the Act 250 permit and the Certificate of Public Good are required in addition to normally mandated local, state, and federal permits. These other permits can be used as evidence of compliance with relevant criteria of Act 250.

Nine district environmental commissions located in five regional offices throughout the state receive and rule on applications for Act 250 permits. Each district commission is made up of three commissioners appointed by the governor and is staffed by an environmental protection coordinator. The Vermont Public Service Board issues the Certificate of Public Good.

Administrative Process

Although the Act 250 and certification procedures are not examples of one-stop permitting, they can serve to coordinate some permitting programs. Any directly affected state agency, municipality, planning commission, or adjoining property owner may act as a party at an Act 250 hearing. In reviewing a project application, the district commission looks for evidence that the project will not negatively affect any aspect of the environment, including water, air, soil, traffic, and aesthetics. Upon request, a district commission will hold joint hearings with other decision makers to reduce duplicative hearings and facilitate coordination. In addition, a commission may issue consolidated land-use permits which integrate such requirements as Department of Health, subdivision, and public building regulations.

The Public Service Board also consults with other agencies during its certification review. In considering an application, the PSB looks at the possible adverse effect on all aspects of the environment.

Experience with the Reform

Both programs have been extensively used. Nearly 4,000 Act 250 permits have been issued since the permit's inception in 1970. No specific numbers in the use of the Certificate of Public Good were provided.

ADDITIONAL COMMENTS

The Public Service Board recently adopted General Order 65, which effectively exempts small power producers (10 kilowatts or less) who sell electricity only at the wholesale level from various regulatory requirements. The objective of this order is to encourage the development of alternative forms of energy.

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VIRGINIA

Permit/Application Coordinator
Joint Application

OVERVIEW

Virginia established a Council on the Environment in 1970 for the purpose of implementing the state's environmental policy and coordinating environmental quality matters. The council has statutory authority to coordinate and consolidate multiple permit processes, although most of its coordinating work is informal.

The Virginia Marine Resources Commission has initiated several measures, including joint application forms and joint processing meetings, to promote intergovernmental coordination of the permitting process for marine resource areas.

PERMIT/APPLICATION COORDINATOR

The administrator of Virginia's Council on the Environment may provide a variety of coordinating services for an applicant who needs multiple state permits. Although the administrator has statutory authority (Va. Code § 10-184.2) to formally perform these services, he has tended to work on an informal basis. Any applicant requiring more than one state permit may request this service.

Permits/Agencies Affected

The council administrator will provide information on all relevant state, local, and federal permit requirements to project applicants. The council administrator may also informally work with the state commissions or boards that issue environmental permits, such as the Air Pollution Control

Board, the Water Control Board, and the Marine Resources Commission. The administrator also works with relevant federal agencies such as the Army Corps of Engineers.

The Council on the Environment is composed of the chairpeople or commissioners of eight state agencies primarily responsible for environmental protection, two gubernatorial appointees, a chairman, and an administrator.

Administrative Process

Applicants generally learn about the permit coordination services through referral from the governor's office or other state agencies. Depending on the applicant's preferences, the council administrator's assistance may range from simply notifying the applicant of relevant permit requirements to actually working with the applicant and various permitting agencies to modify the project, if necessary, so that it will be environmentally acceptable. In the case of extensive coordination, the administrator might serve as the channel for all permit applications and communications with the permitting agencies. At a minimum, A Guide for Permit Applicants is provided to the applicant. The degree of council involvement is entirely voluntary on the part of the applicant.

Experience with the Reform

As a result of an adverse opinion on the permit coordination statute released by the State Office of the Attorney General, the council has been advising permit applicants not to request formal permit coordination. The most popular of the informal services offered by the council are preapplication meetings between developers and agency staff.

The council administrator reports that he provides informational services to about ten or twelve applicants per month, and more involved assistance to eight or ten per year.

JOINT APPLICATION AND PERMIT/APPLICATION COORDINATOR FOR MARINE RESOURCES PERMITS

The Virginia Marine Resources Commission has formally introduced state/federal joint permit procedures for projects in, on, and over state-owned submerged land and vegetated tidal wetlands. These include consolidation of four state and federal permit applications into one joint application, promulgation of a joint federal/state public notice, and monthly coordinated permit processing meetings between federal and state agencies.

Permits/Agencies Affected

Applications for the following permits are consolidated into one application form: the Virginia Marine Resources Commission's permit to encroach in, on, or over state-owned submerged land, the U.S. Army Corps of Engineers' permit under Section 404 of the Clean Water Act, the Corps' permit under Section 10 of the Rivers and Harbors Act, and the local wetlands permit. In addition, the State Water Control Board uses the information from the application in processing its certification required by the Clean Water Act, Section 401.

In addition to the district office representatives of the Army Corps of Engineers and the State Marine Resources Commission, other federal agencies and state commissions participate in the monthly joint meetings. These participants include representatives from the Region III EPA, the regional Fish and Wildlife Service (U.S. Department of the Interior), the National Marine Fisheries Service (U.S. Department of Commerce), the State Health Department, the State Water Control Board (which issues Section 401 certification), and the Virginia Institute of Marine Science.

Administrative Process

The Marine Resources Commission assigns a single processor to follow each project application through all its procedural steps. The processor prepares the necessary copies of the application for the federal, state, and local agencies, makes the initial site visit, presents the project formally to the Marine Resources Commission, and performs any necessary follow-up activities.

The Marine Resources Commission and the Army Corps of Engineers issue joint public notice for project applications, but they do not hold joint public hearings. State and federal agencies, however, are exploring the possibility. The local wetlands board must hold a public hearing prior to any state or federal hearing and process the application within prescribed time frames.

The commission tries to rule on state permits within 45 to 60 days. It holds public hearings monthly and considers all projects against which a formal protest has been lodged. In the federal permitting process, complex projects generally take longer to resolve.

Joint monthly processing meetings are held to help coordinate the applicant through the federal permitting process. At these meetings state and federal representatives discuss and resolve problems on individual applications with the assistance of ground and aerial photographs of project sites.

Experience with the Reform

The Marine Resources Commission processes about 800 to 1,000 applications per year, all of which go through the coordinative process. The program has been effective in reducing conflict among agencies, improving enforcement, and reducing permit processing time. The commission continues to be a strong advocate for delegation by the Army Corps of Engineers of its Section 404 dredge and fill permit authority in order to provide a true one-step process.

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WASHINGTON

One-Stop Permitting
Decision-Making Deadlines
Permit/Application Coordinator
Joint Hearing

OVERVIEW

Washington State has aggressively pursued new ways of streamlining permit procedures. In 1970 Washington became the first state to pass energy facility siting legislation. In 1973 Washington established procedures to coordinate environmental permitting for projects not included under the siting legislation. More recently, state environmental staff have developed administrative procedures to coordinate with federal officials in applications for "low-head" hydroelectric projects.

ONE-STOP PERMITTING AND DECISION-MAKING DEADLINES FOR MAJOR ENERGY PROJECTS

Washington's Siting Legislation (1970; Ch. 80.50 RCW) established the Energy Facility Site Evaluation Council (EFSEC) and a true one-stop permitting process. The following energy plants and transmission facilities are required to use this process: oil and gas pipelines of 15 miles or more; stationary energy plants with capacity of 250,000 kilowatts or more; floating powerplants with capacity of 50,000 kilowatts or more; receiving facilities for liquified gas or petroleum; underground reservoirs for natural gas with capacity of 100 million cubic feet; petroleum processing facilities processing 25,000 barrels per day; and associated facilities.

Permits/Agencies Affected

The siting council issues an Energy Site Facility Certification Agreement which is in lieu of all state and local permits that would otherwise be required. Preparation of state and federal environmental impact statements is integrated into the review process, but these documents must be prepared separately from the certificate agreement. Occasionally, the state and federal governments will publish one EIS jointly.

The members of the EFSEC consist of a chairperson appointed by the governor, the directors of 14 state agencies, and representatives from each local government unit that may be affected by the project.

Administrative Process

The project sponsor must submit a detailed application to the siting council describing the proposed project and site; analysis of alternatives; compliance with local, state, and federal standards; socio-economic and environmental impacts; schedules for environmental studies; etc. Although there is no check-off list for individual permit requirements, most agencies that issued permits for siting approval prior to the EFSEC legislation are members on the council. Certification by the EFSEC replaces all state and local permit requirements. The council may hire independent consultants to review the application and, if required, write the EIS.

Within 60 days of receiving the application, a public hearing is held in the affected county for the purpose of determining consistency with local land-use ordinances. After the draft EIS is completed, quasi-judicial public hearings are held. There is ample opportunity for public comment throughout the process.

Within 12 months after receipt of the application (or longer if the EFSEC and the applicant mutually agree to extend the deadline), the council makes its recommendation to the governor on whether to approve or deny the project and under what conditions. The governor must approve, reject, or direct reconsideration of the project within 60 days of receiving the recommendation. The governor has ultimate approval but may not override a negative recommendation by the council.

The EFSEC is required by its enabling statute to coordinate activities as much as possible with federal regulatory agencies. In order to further this goal the council has often adopted federal environmental impact statements for state purposes, conducted joint hearings with federal agencies, and arranged for cooperative environmental impact studies with the Department of the Interior.

Experience with the Reform

To date, the council has issued four certificates for seven nuclear powerplants (three twin projects). In addition, the council is currently considering three applications (two oil port/crude oil transshipment systems and one coal-fired powerplant).

PERMIT/APPLICATION COORDINATOR, JOINT HEARING, AND DECISION-MAKING DEADLINES

The Environmental Coordination Procedures Act (1973; Ch. 90.62 RCW) set up permit information centers throughout the state as well as a procedural coordinating mechanism for securing permits. Any applicant for a new or an expanding activity requiring two or more permits may elect to use the process.

Permits/Agencies Affected

Both state and local agencies are required to participate in the coordinating process. Examples of agencies and permits that may be affected include the Department of Natural Resources' surface mine and drilling permit, the Department of Ecology's water quality permits, regional air pollution control permits, and local governments' shoreline management permit. The Department of Ecology, which issues about 80 percent of all state environmental permits, administers the program.

Administrative Process

An applicant may pick up a master application form at any one of the 39 county planning departments or four regional Washington Department of Ecology's offices, or at the Department of Ecology's Master Application Center. The applicant submits the six-page form as well as an environmental checklist (to determine if a state EIS is needed) to the Master Application Center. The Department of Ecology circulates copies of the application among the state agencies, each of which must comment within 15 days on whether a permit is required and, if so, whether a public hearing is needed. After receiving a response coordinated by the Department of Ecology, the applicant may elect either to withdraw from the process and approach agencies separately or to continue working through the department.

If an applicant elects to use the process, he or she will submit all forms and receive all information through the Department of Ecology. The applicant must still complete separate application forms for each required permit, and each agency will reach its own decision. However, the Department of Ecology will arrange for a joint public hearing (if a hearing is needed), which all permitting agencies must attend. The department and the other agencies will establish a deadline for making their decisions.

In addition, applicants may use the regional permit information centers to obtain preliminary information about how many and which state permits may be required for their project.

Experience with the Reform

Department of Ecology staff commented that the environmental coordination procedures have produced tangible time and cost savings for both industry and government. The element most used by project sponsors is the initial stage, in which agencies must identify which permits will be required based on information contained in the master application. Through June 1981, 307 applications were submitted and 53 went through the entire process. Recent interest in small-scale hydroelectric projects, whose sponsors tend to be unfamiliar with the intricacies of government, has greatly intensified the level of use.

PERMIT/APPLICATION COORDINATOR FOR HYDROELECTRIC PROJECTS

Because of the tremendous increase in small-scale hydropower applications resulting from the Public Utility Regulatory Policies Act, the Department of Ecology's Environmental Review Section has instituted a number of procedures aimed at expediting the permitting process. At present 20 new applications are submitted each month.

The Department of Ecology and the Federal Energy Regulatory Commission (FERC) have agreed that the environmental analysis required under the state environmental policy act may be used to complete the environmental sections of the FERC application. In some cases the state and federal agencies will prepare a joint EIS.

The Department of Ecology has written a handbook for hydropower applicants explaining step by step the process for complying with state and federal requirements. In addition, the department has conducted informational workshops around the state.

The Department of Ecology is in the process of computerizing a tracking system for all hydropower projects. The department keeps a master list of all hydro projects. It also conducts special meetings with other agencies, such as the Department of Fish and Game, in order to work out application problems.

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WEST VIRGINIA

Permit/Application Coordinator

OVERVIEW

In West Virginia, the Governor's Office of Economic and Community Development helps expedite the permitting process for industrial and energy projects by acting as an informal permit coordinator.

PERMIT/APPLICATION COORDINATOR

Upon request, and on a case-by-case basis, the Economic and Community Development Office assists developers as they seek multiple permit approval. Projects for which the office provides permit coordination include energy-related facilities (such as coal mines, oil and gas wells, coke plants, and synthetic fuel plants) and industrial facilities (primarily manufacturing).

Permits/Agencies Affected

The coordination service performed by the Economic and Community Development Office covers all state environmental permits needed for a facility but does not cover federal or local permits. Although the office coordinates these permits, applicants must still apply to each department for individual permits. For example, the Department of Health issues permits relating to nonhazardous waste disposal and drinking water; the Department of Natural Resources has authority over water quality, surface mining and reclamation, and hazardous waste; and the Air Pollution Control Commission is concerned with air pollution discharge.

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Administrative Process

The Economic and Community Development Office assists industrial and energy applicants by doing the following:

- Actively encouraging and arranging for pre-application conferences with the relevant state permitting agencies
- Tracking permit applications for individual projects
- Intervening where appropriate to resolve conflicts between a developer and a permitting agency.

Experience with the Reform

The Economic and Community Development Office has assisted industrial project applicants for many years and energy project applicants for one year. In this past year, the office has helped approximately six developers of energy projects with their permit applications. Energy and industrial projects currently under development in the state are being monitored in order to track permit applications.

ADDITIONAL COMMENTS

Permit catalogs covering coal mining and general industrial facilities are currently being prepared by the Economic and Community Development Office.

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WISCONSIN

Permit/Application Coordinator
Joint Hearing
Decision-Making Deadlines
General Permit
Computer Tracking

OVERVIEW

Wisconsin's innovations in permitting result from the Power Plant Siting Act of 1975, the Metallic Mining Reclamation Law of 1978, and administrative policies of the state's Department of Natural Resources (DNR). The reforms include joint and master hearings, issuance of general permits, and a computer tracking system for permits.

Rather than review and issue all permits from DNR headquarters, the DNR is developing a program that will delegate noncomplex NPDES permits and most solid waste permits to six field offices by mid-1983. The director of the Environmental Standards Division of the DNR reports that decentralization should result in greater responsiveness to the discharger and the public when dealing with localized problems. The DNR hopes to decentralize other environmental permits, but it recognizes that decentralization may not be desirable for permits that involve complex environmental factors, such as permits for water discharges. DNR staff have proposed the appointment of a permit expediter who would supervise decentralized permits, reviewing their regional and state impacts.

PERMIT APPLICATION COORDINATOR, JOINT HEARING, AND DECISION-MAKING DEADLINES FOR POWER FACILITIES AND RAILROAD LINES

Under the Power Plant Siting Act of 1975 (196.491(3) Wisc. Stats. and P.S.C. 111.42 and 2.90-2.95, Wisc. Adm. Code), the DNR and the Public Service Commission (PSC) have established procedures to coordinate the review of powerplant (over 12 megawatts) and transmission-line (over 100 kilovolts) proposals. The two agencies hold a single joint hearing on the state environmental impact statement and the major permits for these facilities.

Permits/Agencies Affected

The joint hearing covers all environmental permits that the DNR oversees, including those for NPDES, underground injection control, dredge and fill, and solid waste. The joint hearing also applies to those permits for which the state has only partial authority: hazardous waste and PSD permits. In some cases separate hearings may be necessary for NPDES permits, where DNR staff require additional data or extended review of data.

Administrative Process

From the time the project sponsor's application for a certificate of public convenience and necessity and the environmental report (ER) required under Wisconsin's state environmental policy act (§ 150, Wisc. N.R.C.) are accepted as complete, the coordinated review process should take no more than 18 months for powerplants over 300 megawatts. For powerplants of 12 to 300 megawatts and transmission lines, the DNR has five months to act, and the coordinated review is scheduled to take six months. The DNR must approve the major environmental permits under its jurisdiction within 16 months, before the PSC can grant the certificate. The utility cannot condemn land until the PSC issues the certificate. Once the DNR and the PSC issue permits and approvals, no local regulations can prevent construction.

The definition of issues that the environmental report will address, known as "scoping," usually begins a year before the ER is submitted and continues during the draft ER period as part of the coordinated review process.

Experience with the Reform

The powerplant siting procedure has been used in three different forms since its inception in 1975. At the time the statute became effective, three applications were in the process of being reviewed. The PSC and the DNR signed a memorandum of agreement to employ the basic principles of the Siting Act process for these applications, though the deadlines were not applied. All three plants were successfully permitted under these ad hoc procedures. One plant completed the entire coordinated siting process under the 1975 Act. As a result of that case, modifications to the original process were made to include a "scoping" meeting for the ER and public participation opportunities early in the review process. Two applications began this modified process but were withdrawn because of financial reasons before completing it.

GENERAL PERMIT

Rather than give individual environmental reviews and permits to small sources on a case-by-case basis, the DNR issues a general permit for the entire state or for a region. This eliminates the need to prepare an individual document for each source.

Permits/Agencies Affected

So far, the DNR has used the general permit system only for small, noncontact, cooling water discharge permits but plans to extend it to other permits such as those for sand and gravel quarry settling ponds, monuments and cut-stone operations, ready-mix concrete plants, potable water treatment (ion-exchange), and construction site runoff basins.

Administrative Process

If the applicant meets the overall criteria established in the general permit, the applicant automatically qualifies as a general permittee. Aside from obligations by the permittee to maintain its facility in good working order and to internally monitor its discharges, no special reporting requirements or site inspections are necessary. The general permit is nevertheless authorized by the Clean Water Act and legally enforceable should the DNR receive a complaint on the facility or wish to inspect it later.

Experience with the Reform

DNR staff report that general permits have eliminated 300 to 400 permits for small plant water cooling discharges alone. According to the department, estimates show that the average permit costs the state approximately $200 to process, so that if 500 industrial permits are converted to a general permit, a savings of $100,000 results over the normal five-year permit cycle. The approach frees staff time formerly devoted to supervision and duplicative individual contact.

JOINT HEARING FOR MINING PROJECTS

Under the Metallic Mining Reclamation Law of 1978 (§§ 144.80 to 144.94 Wisc. Stats.), exploration and mining projects can make use of a "master hearing" similar to the joint hearing for powerplants. This would consolidate review of all required state and federal environmental permits into one hearing held by the DNR. The state has not used this provision because there are no mining applicants far enough along in a project to qualify. The Metallic Mining Reclamation Law was under review by the legislature in 1981. Amendments are expected.

COMPUTER TRACKING

The DNR employs a computer tracking system to assist internally with permits. At present the system applies to all the DNR's municipal and industrial waste discharge permits.

ADDITIONAL COMMENTS

In addition to assigning permits to categories routinely used by state agencies and the EPA to classify permits, such as major/minor and primary/secondary, the DNR divides permits into complex/ noncomplex, and uses this categorization to determine overall permit priority.

To determine whether a discharge is complex or noncomplex, the DNR staff asks three questions: (1) Is the source a major discharge? (2) What are the applicable effluent limitation guidelines? (3) If the EPA has not issued guidelines, what is the staff's best professional judgment? In the case of land disposal permits, a discharger is complex if its system includes pretreatment before irrigation and requires a ground water monitoring system.

Complexity is one factor that the DNR considers in setting overall permit priorities. DNR staff analyze in depth such factors as industry type, waste type, treatments employed, and a point value system to determine a permit's complexity, time demands, and environmental significance. The system assists the DNR in setting future program priorities, assigning staff workloads, and setting assessments for discharges.

By relatively ranking the permits, the point system helps the DNR in its program planning. The most recent analysis of approximately 1,500 permits resulted in about 25 percent being classified as complex. Initially, the DNR has decided only to delegate noncomplex discharge permits to the field offices.

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WYOMING

OVERVIEW

Most of the efforts at expediting issuance of environmental permits in Wyoming are informal in nature, designed to foster cooperation among state agencies and departments that issue permits separately. Preapplication conferences and memoranda of understanding between state agencies and between state and federal agencies help define permit responsibilities. Decision-making deadlines found in administrative regulations set time requirements for permit review and issuance by the Department of Environmental Quality and the Industrial Siting Council.

The Air Quality, Water Quality, and Land Quality divisions of the state Department of Environmental Quality issue air, water, dredge and fill, and solid and hazardous waste permits. Large-scale energy projects must obtain an additional siting permit from the Industrial Siting Council. Applicants proposing to drill oil or gas wells must receive a permit from the state oil and gas supervisor. Those project sponsors with plans for coal gasification plants, pipelines, utility plants, and similar facilities must apply for a certificate from the Public Service Commission.

The Land Quality Division has made cooperative agreements with boards of county commissioners throughout the state. These agreements enable the division to coordinate its review with local ordinances and requirements established by individual counties.

Staff at the Industrial Siting Administration noted that efforts have been made in the past to hold joint hearings with the state Public Service Commission and federal Bureau of Land

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Management. These attempts were halted when the projects were withdrawn or rescheduled. The Industrial Siting Administration has a memorandum of understanding with the federal Office of Surface Mining. This agreement makes the Siting Administration responsible for the social and economic review of proposals coming under the jurisdiction of both agencies.

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APPENDICES

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Appendix A

EPA PROGRAMS DELEGATED AND AUTHORIZED TO STATES

MAY 15, 1982

		EPA PROGRAM					
		PSD			NPDES	RCRA	
EPA Region	State	SIP[1]	Full[2]	Partial[3]	Delegated[4]	Phase I[5]	Phase II[6] Application
I	Connecticut				▨		
	Maine	▨				▨	
	Massachusetts					▨	
	New Hampshire			▨		▨	
	Rhode Island					▨	
	Vermont	▨			▨	▨	
II	New Jersey				▨	▨	
	New York				▨	▨	
III	Delaware	▨			▨	▨	
	Maryland	▨			▨	▨	
	Pennsylvania			▨	▨	▨	
	Virginia		▨		▨	▨	
	West Virginia			▨	▨		
IV	Alabama	▨			▨	▨	
	Florida			▨		▨	
	Georgia	▨			▨	▨	
	Kentucky		▨			▨	▨
	Mississippi		▨		▨	▨	
	North Carolina	▨			▨	▨	▨
	South Carolina		▨		▨	▨	
	Tennessee	▨			▨	▨	
V	Illinois		▨		▨	▨	
	Indiana		▨		▨		
	Michigan		▨		▨		
	Minnesota		▨		▨		
	Ohio		▨		▨		
	Wisconsin			▨	▨	▨	
VI	Arkansas	▨				▨	▨
	Louisiana			▨		▨	
	New Mexico			▨			
	Oklahoma			▨		▨	
	Texas			▨		▨	▨
VII	Iowa				▨	▨	
	Kansas				▨	▨	
	Missouri		▨		▨		
	Nebraska			▨	▨		
VIII	Colorado				▨		
	Montana			▨	▨	▨	
	North Dakota	▨			▨	▨	
	South Dakota						
	Utah	▨				▨	
	Wyoming	▨			▨		
IX	Arizona						
	California				▨	▨	
	Hawaii				▨		
	Nevada				▨	▨	
X	Alaska						
	Idaho						
	Oregon				▨	▨	
	Washington				▨		

[1] Indicates that the state has received full authority for the PSD program through a state implementation plan. The state promulgates its own regulations subject to EPA approval.

[2] Indicates that the state has received full delegation of the PSD program from the EPA; the state handles the technical and administrative aspects of permit issuance and implements the EPA's regulations.

[3] Indicates that the state has received partial delegation of the PSD program from the EPA. Usually the state performs the technical work and the EPA actually issues the permit.

[4] Indicates that the state has been delegated the NPDES program.

[5] Indicates that the state has received authorization for Phase I of RCRA. Under Phase I, states enforce regulations applicable to generators and transporters of hazardous wastes, and facilities granted interim status.

[6] Indicates that the state has submitted final application to receive authorization for Phase II of RCRA. Under Phase II, states will permit treatment, storage, and disposal facilities under permanent status standards.

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Appendix B

BIBLIOGRAPHY

American Bar Associations. *The Need for Power and the Choice of Technologies: State Decisions on Electric Power Facilities*. U.S. Department of Energy. DOE/EP/10004-1, June 1981.

City and County of Honolulu Department of Land Utilization. *Guide to Land Use Laws in Honolulu*. 1981.

Colorado Department of Natural Resources. *Colorado's Joint Review Process for Major Energy and Mineral Resource Development Projects*. December 1980.

Connecticut Council on Environmental Quality. *Citizen's Guide to the Permit Process*. 1979.

Connecticut Department of Environmental Protection. *Permit Authority Index*. March 1981.

The Council of State Governments. *Untangling the Permit Web: Washington's Environmental Coordination Procedures Act*. June 1978.

Florida Department of Environmental Regulation. *Manual of State Regulatory and Review Procedures for Land Development in Florida*. January 1981.

Greenwood, Richard. "Energy Facility Siting in North Dakota." *North Dakota Law Review*, Vol. 52, No. 4 (1976), pp. 703-728.

Hamilton, Michael S. "The Permit Explosion: Siting New Energy Facilities in the Western United States." Colorado State University, Fort Collins, Colorado. December 1980.

Hamilton, Michael S., and Wengert, Norman. "Environmental, Legal and Political Constraints on Power Plant Siting in the Southwestern United States." Report to the Los Alamos Scientific Laboratory, March 1980, at Colorado State University.

Hawaii Interagency Task Force for State Permit Simplification. *Preliminary Report of Findings and Recommendations*. March 1981.

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Hopping, Wade L., and Raepple, Carolyn Songer. "A Solution to the Regulatory Maze: The Transmission Line Siting Act." *Florida State University Law Review*, Vol. 8, No. 3 (1980), pp. 441-461.

Illinois Environmental Protection Agency. *Procedures for Coordinated Permit Review*. November 1979.

Illinois Environmental Protection Agency. *Protecting Illinois Waters, A Cooperative Effort by You and Illinois EPA, Illinois Department of Transportation, Division of Water Resources, Illinois Department of Conservation, U.S. Army Corps of Engineers*. June 1981.

Illinois Institute of Natural Resources. *The Illinois Coordinated Review Process for Major Energy Development Projects Program Design*. June 1981.

Illinois Institute of Natural Resources. *Interim Report--Synfuels Facilities Siting Permits*. May 1981.

Kentucky Department for Natural Resources and Environmental Protection. *Report of the Permitting and Facility Siting Task Force, Phase 1--Permit Coordination*. April 1979.

Massachusetts Department of Environmental Quality Engineering. *Permit Directory--A Guide to Programs and Procedures*. January 1980.

Minnesota Department of Economic Development. *Business Licensing Study*. Minnesota State Legislature, January 1981.

Morell, David, and Singer, Grace, Center for Environmental Studies, with the support of the Division of Technology Overview, U.S. Energy Research and Development Administration. *State Legislature and Energy Policy in the Northeast: Energy Facility Siting and Legislative Action*. Brookhaven National Laboratory Regional Energy Studies Program. BNL 50679, P4/CES Report No. 40, June 1977.

National Governors' Association, Edward L. Helminski, Director, Energy and Natural Resources Program, Ned Helme, Assoc. Director, David W. Stevens, Consultant. "State Initiatives in Expediting Energy Facility Siting Review Procedures." NGA White Paper, Washington, D.C., August 1, 1979.

New Jersey Department of Environmental Protection. A Guide Through the New Jersey Department of Environmental Protection. January 1980.

New Jersey Office of Business Advocacy. Directory of State Programs for Regulating Construction. March 1979.

New York, New Jersey, and EPA Region II Joint Task Force on Permit Consolidation. Draft of Final Report of the Information Management Committee. June 12, 1980.

New York, New Jersey, and EPA Region II Joint Task Force on Permit Consolidation. Report of the Permit Administration Committee. August 1, 1980.

North Carolina Department of Natural Resources and Community Development Office of Regulatory Relations. North Carolina Environmental Permit Directory. 1981.

Ohio Power Siting Commission. Citizen Participation. May 1978.

Rhode Island Department of Environmental Management, Division of Planning and Development. Permitting Process--Major Industrial and Energy Facilities. July 1981.

Rhodes, Robert M. "Streamlining State Environmental Permitting--The Florida Experience." Natural Resources Lawyer, Vol. XII, No. 4, pp. 727-734.

South Carolina Coastal Council. State of South Carolina Coastal Management Program and Final Environmental Impact Statement. 1979.

Southern States Energy Board in cooperation with DOE Region IV. "Energy Projects Proposed in Federal Region IV (1980-2000) Including Specific State/Federal Permit Requirements." Unpublished Report, Atlanta, Georgia, August 1980.

Southern States Energy Board in cooperation with Western Interstate Energy Board and DOE Region VI (Dallas, Texas). "Energy Projects Proposed in Federal Region VI (1981-2000) Including Specific State/Federal Permit Requirements." Unpublished Report, Atlanta, Georgia, February 1981.

Southern States Energy Board, Western Interstate Energy Board, Regulatory Reform Institute. Survey of State Permit Consolidation Initiatives--Draft Report. U.S. Environmental Protection Agency. Contract #68-01-5052, June 1981.

Texas House of Representatives, Committee on Environmental Affairs. *Subcommittee Report on Joint Permitting Air and Water Quality*. October 1980.

Tosco Foundation. *Siting Major Energy Facilities: A Process in Transition--Executive Summary*. Rockefeller Foundation, State of Delaware, State of New Mexico, Tosco Corporation. October 1979.

U.S. Geological Survey. *Permit Requirements for Development of Energy and Other Selected Natural Resources*. Series of reports prepared for the U.S. Geological Survey and the following regional commissions: Appalachian, Coastal Plains, Four Corners, Old West, Ozarks, Pacific Northwest, and Upper Great Lakes. 1981.

Virginia Council on the Environment. *Environmental Regulation in Virginia, A Guide for Permit Applicants*. November 1978.

Virginia Council on the Environment. *Virginia's Environment, Annual Report 1980*.

Western Governors' Policy Office, Linkhart, Doug. "Permitting and Siting of Energy Projects: Causes of Delay, State Solutions." Study Report, June 1981.

Western Interstate Nuclear Board. *Regional Factors in Planning and Siting Electrical Energy Facilities in the Western States*. U.S. Nuclear Regulatory Commission. Contract #(49-24)-0249, April 5, 1977.

Wisconsin Office of State Planning and Energy. *A Citizens Guide to the Wisconsin Environmental Policy Act*. May 1977.

Wisconsin Public Service Commission and Wisconsin Department of Natural Resources. Docket 05-E1-13. Background material for discussion at prehearing conference re the Joint Investigation on the Effectiveness of Power Plant Siting Procedures. January 1981.

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